THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
FEDERAL REGISTER
OF THE UNITED STATES 1934

VOLUME 25 NUMBER 24

Washington, Thursday, February 4, 1960

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

[P.P.C. 612, 25th Rev.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Khapra Beetle

REVISED ADMINISTRATIVE INSTRUCTIONS DESIGNATING PREMISES AS REGULATED AREAS

Pursuant to § 301.76–2 of the regulations supplemental to the Khapra Beetle Quarantine (7 CFR 301.76–2) under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162), revised administrative instructions are hereby issued as follows, listing premises in which infestations of the khapra beetle have been determined to exist and designating such premises as regulated areas within the meaning of said quarantine and regulations.

§ 301.76–2a Administrative instructions designating certain premises as regulated areas under the khapra beetle quarantine and regulations.

Infestations of the khapra beetle have been determined to exist in the premises listed in paragraphs (a) and (b) of this section. Accordingly, such premises are hereby designated as regulated areas within the meaning of the provisions in this subpart:

(a)

ARIZONA

Boker Dairy, Route 1, Box 735, Scottsdale.

Brusally Ranch, located 8/10 mile north of Shea Boulevard on Waldorf Drive, P.O. Box 712, Scottsdale.

Don Calder Dairy, 915 South Horne Lane, Mesa.

CALIFORNIA

Modesto Alcarez residence, Dahlia 70, located ½ mile south of Eighth Street on Newside Canal, Newside Gate 9, Imperial.

Anza Land Company property, near airport, Borrego Springs.

Harrison-Riedy Grain Company property, 105 South 31st Street, San Diego.

H. K. Hutchinson chicken ranch, Route 2, Box 130, located 2 miles west of Highway 99 on Tamarack Road, Eucalyptus Canal Gate 139, Imperial.

Henry Worthington feed lot and home ranch, Dahlia 70, location—feed lot, 1 mile south of Eighth Street on Newside Canal; home ranch building, 1 mile north and east of feed lot; Imperial.

(b) The portion of each of the following premises in which live khapra beetles were found has received the approved fumigation treatment, but these premises must continue under frequent observation and inspection for a period of one year following fumigation before a determination can be made as to the adequacy of such treatment to eradicate the khapra beetle in an upon such premises. During this period regulated articles may be moved from the premises only in accordance with the regulations in this subpart.

ARIZONA

Advance Seed & Grain Co. (Grain Division) property, 310 South 24th Avenue, Phoenix.

Hi-Jolly Date Farm, 4500 East Main Street, Mesa.

Jim Akers Dairy Farm, Highway 85, located 2 miles south of Hatch, P.O. Box 12, Hatch.

Frank Erdell dairy, located 2 miles west and 1 mile north of the junction of Highways 70–80 and 85, Route 2, Box 85, Las Cruces.

TEXAS

Clint Grocery Store, Clint.

A. H. Dean property, 8211 Carpenter Drive, El Paso.

El Paso Union Stock Yards, 1800 East 11th Street, El Paso.

Emmett's Poultry and Egg Company property, 150 North Piedras Street, El Paso.

Furr's Super Market, 7690 North Loop Road, El Paso.

H&M Grocery Store, Fort Hancock.

Heid Brothers Feed and Seed Store, 1705 Texas Avenue, El Paso.

L. M. Hamilton property, 4036 Emery Way, El Paso.

The Penn Dairy Farm, Mesa Road, El Paso.

(Sec. 9, 37 Stat. 318; 7 U.S.C. 162. Interprets or applies sec. 8, 37 Stat. 318, as amended; 7 U.S.C. 161. 19 F.R. 74, as amended; 7 CFR 301.76–2)

Subsequent to the twenty-fourth revision, effective November 28, 1959, infestations of the khapra beetle were discovered on the premises of Lazy RP Ranch, Route 1; Box 1071X, Scottsdale, Arizona; Alex Romanoff Ranch, located at McDonald Drive and Cattle Track Road, Box 248, Scottsdale, Arizona; and Vogel Seed and Feed, 860 Main Street, Brawley, California. Movement of regulated articles from these properties was immediately stopped. Within a few days the infested premises had been

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FEDERAL REGISTER

REpublic 7-7500 Extension 3261

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

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A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

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fumigated in their entirety and declared free of khapra beetle infestation. Accordingly, these properties are not being included in this revision.

This revision has the effect of revoking the designation as a regulated area of certain premises in Arizona, it having been determined by the Director of the Plant Pest Control Division that adequate sanitation measures have been practiced for a sufficient length of time to eradicate the khapra beetle in and upon such premises. It also adds certain premises in Arizona and California to the list of premises in which khapra beetle infestations have been determined to exist, and designates such premises as regulated areas under the khapra beetle quarantine and regulations.

As an informative item, the revision segregates certain regulated premises in Arizona, New Mexico, and Texas where the approved fumigation treatment has been applied to the portion of the premises in which live khapra beetles were found and which are consequently in a somewhat different category than untreated premises.

These administrative instructions shall become effective February 4th, 1960, when they shall supersede P.P.C. 612, Twenty-fourth Revision, effective November 28, 1959 (24 F.R. 9536).

These instructions, in part, impose restrictions supplementing khapra beetle quarantine regulations already effective. They also relieve restrictions insofar as they revoke the designation of certain regulated areas. They must be made effective promptly in order to carry out the purposes of the regulations and to be of maximum benefit in permitting the interstate movement, without restriction under the quarantine, of regulated products from the premises being removed from designation as regulated areas. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the foregoing administrative instructions are impracticable and good cause is found for making the effective date thereof less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 1st day of February 1960.

[SEAL] E. D. BURGESS,
Director,
Plant Pest Control Division.

[F.R. Doc. 60-1154; Filed, Feb. 3, 1960; 8:53 a.m.]

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 725—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO

National Marketing Quotas for Certain Types of Tobacco for 1960–61 Marketing Year

Correction

In F.R. Doc. 60-926, appearing at page 773 of the issue for Saturday, January 30, 1960, the last sentence in §725.1105(b) should read as follows: "Therefore, the announcements and apportionments of the national marketing quotas for fire-cured (type 21) tobacco, fire-cured (types 22, 23 & 24) tobacco, dark air-cured tobacco and Virginia sun-cured tobacco contained herein shall become effective upon the date of filing with the Director, Division of the FEDERAL REGISTER."

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Milk Order 27]

PART 927—MILK IN NEW YORK-NEW JERSEY MILK MARKETING AREA

Order Amending Order

§ 927.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New York-New Jersey milk marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than March 1, 1960.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued December 23, 1959, and the decision of the Acting Secretary containing all amendment provisions of this order was issued January 20, 1960. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective March 1, 1960, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001 et seq.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more

than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. The order is hereby amended as follows:

§ 927.71 [Amendment]

Amend paragraph (b) of § 927.71 by deleting subparagraph (6) thereof and substituting the following:

(6) The nearby differential rates shall be reduced 10 percent for each full percentage point by which the quantity of milk subject to the differential in the preceding 12 months exceeds 35 percent of the total quantity of Class I–A milk (both pool and nonpool) in such 12 months.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Issued at Washington, D.C., this 1st day of February 1960, to be effective on and after the 1st day of March 1960.

CLARENCE L. MILLER,
Assistant Secretary.

[F.R. Doc. 60–1150; Filed, Feb. 3, 1960; 8:52 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7572 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Filderman Corp. et al.

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices:* 13.155–40 Exaggerated as regular and customary; 13.155–45 Fictitious marking; § 13.230 *Size or weight.* Subpart—Misrepresenting oneself and goods—prices: § 13.1805 *Exaggerated as regular and customary;* § 13.1810 *Fictitious marking.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Filderman Corporation (Washington, D.C.) et al., Docket 7572, December 30, 1959]

In the Matter of Filderman Corporation, a Corporation, F F & G Corporation, a Corporation, and Wolfe Filderman and Dorrel Goldman, Individually and as Officers of Said Corporations; En-Kay Automotive, Inc., a Corporation and Samuel L. Katz and Albert I. Nathanson, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging three affiliated corporations engaged under the name of "Todd's" in the retail sale in the Washington, D.C., area of major appliances, minor appliances, and automobile accessories, respectively, with representing falsely in newspaper advertising that stated higher prices, some of them designated "Reg." or "Orig.", were the usual retail prices of merchandise and that purchasers realized savings in buying at the lower prices, and that certain prices for electrical appliances, including upright freezers, were current manufacturers' list prices; and also charging them with overstating the cubic capacity of the freezers.

After acceptance of an agreement containing a consent order, the hearing examiner made his initial decision and order to cease and desist which became on December 30 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents En-Kay Automotive, Inc., a corporation, its officers and Samuel L. Katz and Albert I. Nathanson, individually and as officers of said corporation and respondents Filderman Corporation, a corporation, F F & G Corporation, a corporation, and their officers and Wolfe Filderman and Dorrel Goldman, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale or sale of any merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication:

(a) That a certain price is respondents' usual and customary price for merchandise when it is in excess of the price at which said merchandise is usually and customarily sold by respondents in the normal course of business in the area or areas where the representations are made.

(b) That any saving is afforded in the purchase of merchandise unless the selling price constitutes a reduction from the price at which said merchandise is usually and customarily sold by respondents in the normal course of their business in the area or areas where the representations are made.

(c) That a stated price is the "Manufacturer's List Price" for any merchandise unless it is the current list price of the manufacturer for the identical merchandise to which such price is applied.

2. Misrepresenting in any manner the amount of savings available to purchasers of respondents' merchandise, or the amounts by which the prices of said merchandise are reduced from the prices at which such merchandise is usually and customarily sold by respondents in the normal course of their business in the area or areas where any such representations are made.

3. Misrepresenting in any manner the size or capacity of any merchandise.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: December 30, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60–1105; Filed, Feb. 3, 1960; 8:45 a.m.]

[Docket 6689 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Gulf Oil Corp.

Subpart—Acquiring stock or assets of competitor: § 13.5 *Acquiring stock or assets of competitor.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731; 15 U.S.C. 18) [Cease and desist order, Gulf Oil Corporation, Pittsburgh, Pa., Docket 6689, January 5, 1960]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging one of the major integrated enterprises in the oil industry—the second largest in the United States in terms of sales and the fourth largest on the basis of total assets—with violating section 7 of the Clayton Act as amended by acquiring and merging into itself on March 2, 1956, the Warren Petroleum Corp., which had been before the merger the principal source of supply for independent refiners, dealers, and distributors and the largest independent producer of natural gasoline and of LP-Gas in the United States.

After acceptance of an agreement containing a consent order, the hearing examiner made his initial decision and order to cease and desist requiring Gulf to divest itself of numerous properties acquired from Warren, and for 10 years following date of the order to make available to independent purchasers the same percentage of LP-Gas and natural gasoline as was sold to that class of customers in 1955, as in the order below set forth.

The order in the initial decision is as follows:

Respondent, Gulf Oil Corporation, its officers and directors, are hereby ordered and directed as follows:

A. Respondent shall, within three years, cause Warren to divest itself absolutely and in good faith of ownership in the following properties:

1. All ownership which Warren has as of the date of this order in the following companies:

(a) Butane Gas, Inc., Little Rock, Ark.;

(b) Butane Wholesale Gas Co., Little Rock, Ark.; and

(c) Harris Distributors, Inc., Little Rock, Ark.;

and although Gulf and Warren shall have the right to sell LP-Gas and natural gasoline to such companies or the purchaser or purchasers thereof, the seller in the contract or contracts of sale of Warren's interest in such companies shall not require as a condition of the sale or sales that such companies or the purchaser or purchasers thereof shall obtain any of their supply of LP-Gas and/or natural gasoline products from either Gulf or Warren or the subsidiaries or affiliates of either.

Divestiture of ownership in the foregoing companies shall be effectuated in such manner as to completely and absolutely divest Warren of any ownership in any other companies resulting from any ownership in any of the foregoing companies.

2. All properties of the Dri-Gas Division of Warren Petroleum Corporation as shown by the books of the Dri-Gas Division as of the date of this order, together with its list of customers and irrevocably any right of Warren to use the brand name "Dri-Gas"; and although Gulf and Warren shall have the right to sell LP-Gas and natural gasoline to the purchaser or purchasers of such properties, the seller in the contract or contracts of sale of the properties shall not require as a condition of such sale or sales that the purchaser or purchasers shall obtain any of their supply of LP-Gas and/or natural gasoline products from either Gulf or Warren or the subsidiaries or affiliates of either.

3. All railroad tank cars used or suitable for use in the transportation of either LP-Gas or natural gasoline in the United States which, as of March 2, 1956, were owned by Warren, or which Warren had the right of use under any equipment trust arrangement as of March 2, 1956; and although Gulf and Warren shall have the right to lease any of such tank cars from the purchaser or purchasers thereof, the seller in the contract or contracts of sale shall not require as a condition of such sale or sales that the purchaser or purchasers shall lease any of such tank cars to either Gulf or Warren or the subsidiaries or affiliates of either.

4. The petrochemical manufacturing plant known as the Conroe Plant, located near the town of Conroe, Montgomery County, Texas, owned and operated by Warren as of March 2, 1956, including all subsequent additions and improvements thereto, as well as all interests of Warren in the tract of land on which such plant is located.

5. All of the natural gasoline storage facilities, loading and unloading equipment, pumps, tanks, pipe and other plant facilities used in connection therewith, owned and operated by Warren as of March 2, 1956, located at San Pedro, near Los Angeles, California, including all subsequent additions and improvements thereto, as well as all interests of Warren in the tract of land on which such facilities are located.

6. All ownership of Warren as of March 2, 1956, in the following plants, including all ownership of Warren in all subsequent improvements and additions thereto, as well as all interests of Warren in the tracts of land on which such plants are located:

Madill Plant, Madill, Okla.
Ringwood Plant, Ringwood, Okla.
Midland Gasoline Plant, Conroe, Tex.

and although Gulf and Warren shall have the right to purchase products from such plants or the purchaser or purchasers thereof, the seller in the contract or contracts of sale of Warren's interest in the plants shall not require as a condition of such sale or sales that the plants or the purchaser or purchasers thereof shall sell any of their production to either Gulf or Warren or the subsidiaries or affiliates of either.

Pending divestiture, Gulf shall not permit Warren to make any changes in any of said plants which shall impair the present rated capacity of said plants for the production of natural gas liquids unless said capacity is restored prior to divestiture.

Respondent shall not cause or permit Warren to sell or dispose of any of the aforesaid properties listed in subparagraphs 1, 2, 3 and 6 of this paragraph A to any of the following named companies, any subsidiaries or affiliates thereof, any combinations thereof, or knowingly sell to any of the officers, directors, or employees of said companies:

Atlantic Refining Company.
Cities Service Oil Company.
Continental Oil Company.
El Paso Natural Gas Company.
Ohio Oil Company.
Phillips Petroleum Company.
Pure Oil Company.
Richfield Oil Corporation.
Shell Oil Company.
Signal Oil & Gas Company.
Sinclair Oil Corporation.
Skelly Oil Company.
Socony Mobil Oil Company, Inc.
Standard Oil Company of California.
Standard Oil Company (Indiana).
Standard Oil Company (New Jersey).
Standard Oil Company (Ohio).
Sun Oil Company.
Sunray Mid-Continent Oil Company.
Superior Oil Company.
Texaco, Inc.
Tidewater Oil Company.
Union Oil Company of California.

The specific naming of the above companies shall not be construed or interpreted that the Commission in any manner approves or disapproves of the sale of any of such properties to any purchaser not so named.

If any of the properties described in subparagraphs 1 through 6 of this paragraph A are not sold or disposed of entirely for cash, nothing in this order shall be deemed to prohibit Warren from retaining, accepting and enforcing any security interests in any of the aforesaid properties for the purpose of securing to Warren full payment of the prices, with interest, at which any of said properties are sold or disposed of; but, if in disposing of any of the aforesaid properties, in accordance with the provisions of this order, Warren retains any interest in any of such properties for the purpose of securing to Warren full payment of the prices with interest at which any of such properties are sold as disposed of, then, if Warren by enforcement or settlement or any other means of enforcing such security, regains ownership or control of any property, said property regained shall be disposed of in the same manner and under the same provisions as are applicable in the original disposition of such property.

In the event Warren, after three years from the entry of this order, has been unable to find a qualified purchaser for all or any of the properties described in subparagraphs 1 through 6 of this paragraph A at a price or other consideration deemed by Warren to be a fair market value, then, and in that event:

(a) Warren and a designated representative of the Commission shall agree upon and appoint a qualified appraiser who shall, at no expense to the Commission, inspect and appraise all or any of such properties and set a fair market value therefor;

(b) If, after the expiration of one year from the date of said appraisal, Warren has been unable to find a qualified purchaser for a consideration equal to that set by said appraiser, then, and in that event, a trustee for the purpose of sale shall be appointed in the same manner as provided for the appointment of the appraiser, which trustee shall proceed to sell, at no expense to the Commission, such remaining property upon the best terms, conditions, and price then available not inconsistent with the terms of this order, subject, however, to respondent's right to be heard by the Commission as to the propriety, reasonableness and acceptability of any offer the trustee proposes to accept. If, upon conclusion of such hearing, the Commission determines the questioned offer to be proper, reasonable and acceptable for the particular property involved, it shall have the right to authorize the trustee to proceed with such sale. If the Commission does not so authorize the sale, then the trustee shall refuse such offer and solicit others.

(c) Until such time as there has been complete divestiture under this order, or until the procedure contemplated in subparagraph (a) above has been invoked, Gulf shall cause Warren to file with the Secretary of the Commission, once each six months following the date of this order, a written report listing the properties which have been sold, the identity of the purchaser or purchasers, and containing a statement of the progress being made toward the disposition of the remaining properties. These reports are solely for the information of the Commission in determining the status and progress of compliance and shall not be made a part of the record in this matter nor disclosed to any unauthorized personnel.

7. None of the properties described in subparagraphs 1 through 6 of this paragraph A shall be sold or transferred, either directly or indirectly, to Gulf or any officer, director or employee of (a) Gulf, (b) Warren, or (c) any of the subsidiaries or affiliates of either.

B. *It is further ordered,* That:

1. For a period of ten years following the date of this order, Gulf and Warren shall in each calendar year sell or make available and affirmatively offer to independent wholesalers, distributors and jobbers, and retailers of LP-Gas in the United States, to be treated collectively

as one class, 48.64 percent of their total available supply of LP-Gas for each such year, which percentage is not less than the percentage sold by Gulf and Warren to all customers in such class during the calendar year 1955; but those sales made during this ten year period by Gulf and Warren to any purchaser of any of the properties described in subparagraphs 1 and 2 of paragraph A of this order, for distribution through such properties, shall not be considered as having been sold under the provisions of this paragraph.

Provided, however, That if the total "domestic and commercial", "internal combustion" and "all other" consumption of LP-Gas as reported by the Bureau of Mines Annual Mineral Market Report "Sales of Liquefied Petroleum Gases" decreases or increases in any one year as a percentage of total United States LP-Gas consumption, then for the next calendar year the percentage which Gulf and Warren are obligated hereunder to sell, or make available and affirmatively offer to the aforesaid class of customer shall be proportionately reduced or increased.

Example: If the United States Bureau of Mines report shows "domestic and commercial", "internal combustion" and "all other" consumption dropped from 40 percent of total consumption in 1959 to 36 percent in 1960, or a 10 percent change, then Respondent may reduce its obligation to the aforesaid class by 10 percent of 48.64 percent.

Provided, further, If by July 1 of each calendar year, independent wholesalers, distributors and jobbers, and retailers of LP-Gas have not as one class collectively contracted to buy from Gulf and Warren for that calendar year a number of gallons equal to the percentage as herein provided in this subparagraph 1, then Gulf and Warren may dispose of such uncommitted balance to any class of customer.

2. For a period of ten years following the date of this order, Gulf and Warren shall in each calendar year sell or make available and affirmatively offer to independent non-major refiners in the United States 2.58 percent of their total available supply of LP-Gas for each such year, which percentage is not less than the percentage of LP-Gas sold by Gulf and Warren to such independent non-major refiners during the calendar year 1955.

Provided, however, If by September 1 of each calendar year, independent non-major refiners have not contracted to buy from Gulf and Warren for that calendar year the number of gallons of LP-Gas equal to the percentage herein provided in this subparagraph 2, then Gulf and Warren may dispose of such balance to any class of customer.

3. For a period of ten years following the date of this order, Gulf and Warren shall in each calendar year sell or make available and affirmatively offer to independent non-major refiners in the United States 44.8 percent of their total available supply of natural gasoline for each such year, which percentage is not less than the percentage of natural gasoline sold by them to such independent non-major refiners during the calendar year 1955.

Provided, however, If by September 1 of each calendar year, independent non-major refiners have not contracted to buy from Gulf and Warren for that calendar year a number of gallons equal to the percentage herein provided in this subparagraph 3, then Gulf and Warren may dispose of such balance to any class of customer.

In the event any independent non-major refiner customer of Gulf and Warren is acquired by any company so that such customer is lost by Gulf and Warren, the percentage of Gulf and Warren's total available supply of natural gasoline which is required by this order to be sold or made available and affirmatively offered each year to independent non-major refiners shall be reduced by the same percentage such customer's purchases bore to Gulf and Warren's total sales of natural gasoline in the calendar year preceding such acquisition. Warren will inform the Commission of such acquisition within 30 days of the loss of the customer and will show the effect of this loss upon the percentage to be offered as set out in this subparagraph.

4. For a period of ten years following the date of this order, Gulf and Warren shall in each calendar year sell or make available and affirmatively offer to independent non-integrated petrochemical manufacturers in the United States 3.52 percent of their total available supply of LP-Gas for each such year, which percentage is not less than the percentage of LP-Gas sold by them to such independent non-integrated petrochemical manufacturers during the calendar year 1955.

Provided, however, If by April 1 of each calendar year, independent non-integrated petrochemical manufacturers have not contracted to buy from Gulf and Warren for that calendar year a number of gallons equal to the percentage herein provided in this subparagraph 4, then Gulf and Warren may dispose of such balance to any class of customer.

5. All LP-Gas and natural gasoline sold or made available and affirmatively offered pursuant to subparagraphs 1 through 4 of paragraph B of this order shall be in good faith and in accordance with the seller's (Gulf or Warren) standard credit requirements, terms and conditions, and when so sold or made available and affirmatively offered, such products shall be deemed to have been sold or made available and affirmatively offered on behalf of both Gulf and Warren.

6. For the purpose of enabling the Commission to determine compliance with paragraph B of this order, Gulf and Warren shall file during such ten (10) year period with the Secretary of the Commission, within 90 days after the close of each calendar year, commencing with the first full calendar year's operation following the entry of this order, an "Annual Compliance Report", which shall state:

(a) "Gulf and Warren's total available supply of LP-Gas" for the preceding year;

(b) The total amount of such supply actually sold and also, set forth separately, the total amount made available and affirmatively offered to each separate class of customer described in subparagraphs 1, 2 and 4 of this paragraph B;

(c) The percentages of such total available supply so sold and the percentages made available and affirmatively offered;

(d) "Gulf and Warren's total available supply of natural gasoline" for the preceding year;

(e) The total amount of such supply actually sold and also, set forth separately, the total amount made available and affirmatively offered to the class of customer described in subparagraph 3 of this paragraph B; and

(f) The percentage of such total available supply so sold and the percentage made available and affirmatively offered.

Should the Commission question the adequacy or sufficiency of any such report or any part thereof, Gulf and Warren shall be required to substantiate the report or part so questioned. Such reports shall be under oath if requested by the Commission. These reports are solely for the information of the Commission in determining compliance with the provisions of this paragraph B of this order and shall not be made a part of the record in this matter nor disclosed to any unauthorized personnel; and such reports together with the reports required under paragraph A of this order, shall constitute the reports required under the present Federal Trade Commission Rules for Adjudicative Proceedings, in the absence of any demand by the Commission for other reports.

C. *It is further ordered,* That:

1. For a period of ten (10) years following the date of this order, Gulf and Warren shall not acquire, directly or indirectly, through subsidiaries or otherwise, all of the stock or such part thereof as would give control or all of the fixed assets (land and depreciable investments) or such part thereof as would amount to more than 20% of the then book value of the fixed assets used in the natural gas liquids business of any person, partnership, firm or corporation in the United States, defined herein as a "marketer" of LP-Gas and/or natural gasoline, whose current annual sales of LP-Gas and natural gasoline, combined, in the United States are in excess of 125,000,000 gallons. The fixing of the specific 20% and the 125,000,000 gallons is not to be construed or interpreted as meaning that the Commission approves any acquisition.

2. For a period of ten (10) years following the date of this order, neither Gulf nor Warren, nor the subsidiaries or controlled affiliates of either, shall require, as a condition of sale, independent wholesalers, distributors and jobbers and retailers in the United States to use the brand name "Gulftane" or "Warrengas," or any other brand or trade name in connection with the sale of natural gas liquids.

D. This order, anything to the contrary notwithstanding, shall be con-

strued in accordance with the following definitions:

1. The term "independent wholesalers, distributors and jobbers of LP-Gas" means persons, firms, partnerships and corporations primarily engaged in the purchase of LP-Gas from marketers and/or in some instances from LP-Gas producers and the resale of said LP-Gas at retail to consumers, as well as to other wholesalers, distributors, jobbers and retailers.

2. The term "marketer" of LP-Gas and/or natural gasoline means any person, firm, partnership or corporation which produces and/or purchases LP-Gas and/or natural gasoline, whose principal natural gas liquids business is the sale or resale of LP-Gas to independent wholesalers, distributors and jobbers and to refiners and other marketers but not to consumers at retail, and/or sale or resale of natural gasoline to refiners.

3. "Retailers of LP-Gas" means persons, firms, partnerships and corporations engaged in the purchase of LP-Gas from wholesalers, distributors and jobbers, and the resale thereof to consumers only.

4. "Independent non-major refiners" means all refiners of finished motor fuels other than the companies named in subparagraph 6 of paragraph A hereof, their subsidiaries and affiliates.

5. "Independent non-integrated petrochemical manufacturers" means:

(a) Petrochemical companies which are not directly or indirectly affiliated with one or more of the companies referred to in subparagraph 6 of paragraph A hereof, and

(b) Petrochemical companies which do not have any interest in the production of liquefied petroleum gas or natural gasoline, and

(c) Petrochemical companies which do not operate a petroleum refinery.

6. "Gulf and Warren's total available supply of LP-Gas" and "Gulf and Warren's total available supply of natural gasoline" for each year mean, for such year, their combined production in the United States determined on the same basis as reported to the Bureau of Mines and Gulf and Warren's combined purchases in the United States for resale plus or minus inventory variations and losses. The terms include all of Gulf and Warren's production which they have the right to take from natural gasoline plants in the United States which are wholly or partially owned by them. The terms also include production in the United States which Gulf and Warren have the right to take from natural gasoline plants owned by others.

7. Whenever the words "year" and "annual" are used herein, the reference is to the calendar year.

By "Decision of the Commission", etc., reports of compliance were required as follows:

It is ordered, That on or before the 5th day of July 1960, and on or before the expiration of each six-month period thereafter until there has been complete divestiture under the terms of the order contained in the initial decision, or until the procedure contemplated by subparagraph (a) of paragraph A of said order has been invoked, the respondent, Gulf Oil Corporation, shall file with the Commission a report, in writing, setting forth the information prescribed in subparagraph (c) of paragraph A of the order contained in said initial decision.

It is further ordered, That on or before the 1st day of April of each year beginning in 1961 and ending in 1970, the respondent shall file with the Commission an additional report, in writing, setting forth the information prescribed in subparagraph 6 of paragraph B of the aforesaid order:

Issued: January 5, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-1106; Filed, Feb. 3, 1960; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2048]

[Fairbanks 021329]

ALASKA

Withdrawing Public Lands for Use of the Department of the Air Force for Military Purposes

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and the disposal of materials under the act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604), as amended, and reserved for use of the Department of the Air Force for military purposes:

MULGRAVE HILLS AREA

TRACT A

Parcel 1

A parcel of land situated approximately 45 miles north of Kotzebue, described as follows:

Beginning at the point of intersection at latitude 67°31'00" N., longitude 163°48' W., 1927 N.A.D.; thence

West, 1820 feet, more or less, along said latitude;
North, 2000 feet;
East, 1820 feet, more or less to a point on longitude 163°48'00" W.;
South, 2000 feet to the point of beginning.

The tract described contains 83.56 acres.

Parcel 2

A parcel of land situated approximately 45 miles north of Kotzebue, described as follows:

From Corps of Engineers Monument "Ardi", go N. 17°16'10" E., 598.95 feet; thence N. 35°00'27" W., 3998.98 feet to the point of beginning; thence

West, 500 feet;
North, 500 feet;
East, 1200 feet;
South, 500 feet;
West, 700 feet to the point of beginning.

The tract described contains 13.77 acres.

Parcel 3

A parcel of land situated approximately 45 miles north of Kotzebue, described as follows:

From Corps of Engineers Monument "Beck", go S. 23°00'24" E., 1575.22 feet; thence N. 64°18'56" E., 710 feet, more or less, to the point of beginning; thence

S. 25°41'04" E., 1100 feet;
S. 64°18'56" W., 1100 feet, more or less, to a point on the mean high tide line of the Chukchi Sea;
N. 22°05" W., 1650 feet, more or less, along said mean high tide line to a point;
N. 64°18'56" E., 1000 feet, more or less;
S. 25°41'04" E., 500 feet, to the point of beginning.

The tract described contains 39.17 acres.

Parcel 4

A parcel of land situated approximately 45 miles north of Kotzebue, described as follows:

From Corps of Engineers Monument "Beck", go S. 23°00'24" E., 1575.22 feet; thence N. 64°18'56" E., 7371 feet, more or less; thence S. 28°16'25" E., 1200 feet to the point of beginning; thence

N. 61°43'35" E., 400 feet;
S. 28°16'25" E., 8000 feet;
S. 61°43'35" W., 500 feet;
N. 28°16'25" W., 8000 feet;
N. 61°43'35" E., 100 feet to the point of beginning.

The tract described contains 91.83 acres.

The tracts withdrawn by this order total 228.33 acres.

ROGER ERNST,
Assistant Secretary of the Interior.

JANUARY 29, 1960.

[F.R. Doc. 60-1110; Filed, Feb. 3, 1960; 8:47 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[9th Gen. Rev. of Export Reg., Admt. 28 [1]]

PART 371—GENERAL LICENSES

Miscellaneous Amendments

1. Section 371.51 *Supplement 1; Commodities subject to General License GHK or GLSA* is amended as follows:

a. The following entries are added:

[1] This amendment was published in Current Export Bulletin 826, dated January 21, 1960.

Commodity description	Schedule B No.	Symbol
Sugar and related products:		
Sugar, beet and cane	16190	H
Maple, sugar	16370	H
Beverages and related products:		
Malt sugar, and maltose	17015	H
Rubber (natural, allied gums, and synthetics) and manufactures:		
Neoprene (polymers of chloroprene)	20093	H
Rubber, reclaimed	20110	H
Rubber cement	20140	H
Rubber and rubberized piece goods, fabrics, and sheetings, n.e.c., made of or employing synthetic rubber	20165	H
Rubber heels	20370	H
Rubber soles, soling, and top lift sheets	20382	H
Surgeon's gloves, and gloves and mittens of synthetic rubber	20390	H
Druggists' and medical rubber sundries, n.e.c., not presently exportable under General License GHK	20410	H
Clothing of rubber or of rubberized cloth not presently exportable under General License GHK	20430	H
Ebonite sheets and sheeting, electrical; insulating material; insulators; rods, electrical; sheets, electrical; and tubes and tubing, electrical	20590	H
Farm tractor and implement pneumatic tires and tire casings, new	20634-20636	H
Solid and cushion tires, truck and industrial, new	20662	H
Rubber and friction tape, except surgical or medicated	20840	H
Rubber or balata belts and belting	20861-20869	H
Rubber hose and tubing	20893-20899	H
Rubber thread, textile-covered or bare	20950	H
Sponge rubber, chemically blown and foam, and products, n.e.c., not presently exportable under General License GHK	20970	H
Cinchona bark	22090	H
Pyrethrum (insect flowers), and rotenone-bearing roots, crude, ground, or powdered	22093	H
Quebracho extract	23390	H
Cotton, unmanufactured:		
Linters	30051-30059	H
Cotton semimanufactures: Cotton pulp	30060	H
Vegetable fibers and manufactures:		
Jute, unmanufactured	32054	H
Manila or abaca, unmanufactured (including tow)	32056	H
Jute manufactures (wholly or in chief weight jute)	32110-32298	H
Flax (linen) fabrics, wide and narrow and trimmings (wholly or in chief weight flax)	33991	H
Wood, unmanufactured:		
Port Orford cedar logs, bolts, and hewn timber (including Lawson's cypress)	40170	H
Sawmill products:		
Port Orford cedar lumber, including Lawson's cypress	40575	H
Wood manufactures:		
Plywood and composite boards	42176-42190	H
Paper base stocks, except rags:		
Pulpwood	46000	H
Wood pulp, except special alpha and dissolving grades of bleached sulfite and bleached sulfate wood pulps (46011)	46020-46190	H
Paper, related products and manufactures:		
Cellophane tape, gummed	48660	H
Petroleum and products:		
Aliphatic naphtha (except motor fuel or gasoline), mineral spirits, solvents, and other finished light aliphatic products, n.e.c.	50190	H
Petroleum asphalt and petroleum asphalt products, n.e.c.	50470	H
Petroleum products, n.e.c., the following only: concrete surface curing compounds, petroleum base; dustproofing fluid, petroleum origin; fruit polishing solutions containing refined paraffin wax; ink oil; Insecti-sol; leveling liquid, petroleum origin; not preservative; news ink vehicle; No Glo mud treating oil; petroleum bases for insecticide sprays; and shingle oil	50590	H
Glass and products:		
Ophthalmic glass and ophthalmic lens blanks	52313	H
Glass insulators, tubes, tubing, rods, canes, and electric light bulb blanks	52920-52940	H
Clay and products:		
Fire clay	53030	H
Nonstructural clay products, n.e.c.	53780	H
Other nonmetallic minerals and products (precious included):		
Whetstones (sticks, files and blocks) of natural abrasives	54131	H
Abrasive paper and cloth, coated with natural abrasives	54181	H
Metal abrasives	54200-54205	H
Diatomaceous earth and products (including abrasives), n.e.c.	54300	H
Asbestos and manufactures, except clutch facing and brake lining (54580-54587)	54511-54595	H
Asphalt or tar composition roofing and siding and other asphalt saturated heavy paper products for construction	54660	H
Asphalt and bitumen, natural, unmanufactured	54700	H
Graphite (plumbago), natural	54721-54729	H
Carbon and graphite electrodes for furnace or electrolytic work, except those with smallest dimension 2 inches or over	54730	H
Refractory crucibles, retorts, stoppers, and other carbon and graphite refractories	54805	H
Carbon or graphite products, n.e.c., except: graphite greases and lubricants; spectroscopic carbons; and graphite products having smallest dimension of 2 inches or over	54809	H
Mica and mica manufactures	55100-55130	H
Magnesite and magnesia, and manufactures, except magnesia cement and magnesium oxide of 97 percent purity or higher	57226-57227	H
Steatite, soapstone, and pyrophyllite, crude and ground	57360	H
Talc, steatite, soapstone, and pyrophyllite manufactures, n.e.c., not presently exportable under General License GHK	57370	H
Cryolite, natural and artificial	59610	H
Fluorspar, all grades, except optical	59615	H
Sand, n.e.c.	59620	H
Kyanite and allied minerals, crude, ground, or calcined	59640	H
Other nonmetallic mineral products (other than precious) not presently exportable under General License GHK, except cuprous pyrites; iron pyrites; lithium-containing minerals (e.g., amblygonite and spodumene); natural mineral wax; sulfur ores and crude sulfur	59645	H
Iron and steelmaking raw materials:		
Iron ore and concentrates, all grades	60010	H
Pig iron, all grades	60020	H
Iron products and steel mill products, rolled and finished:		
Bars, concrete reinforcement	60280	H
Rails, trackwork, and track accessories (all steel grades)	60511-60565	H
Railway car and locomotive wheels, axles, and tires, cast, rolled or forged	60570-60586	H
Pressure pipe and soil pipe, cast iron	60670-60675	H
Carbon steel structural shapes, not fabricated	60730	H
Sheet piling (all steel grades)	60740	H
Barbed wire	60830	H
Steel mill products, rolled and finished, n.e.c.	60920	H
Castings and forgings:		
Castings and forgings, iron and steel, rough and semifinished, except special types included on the Positive List under Schedule B Nos. 61050, 61055, and 61065	61000-61065	H
Metal manufactures:		
Table flatware, of precious metals, except silver	61175	H
Hollow ware, n.e.c., solid or plated, of precious metals	61197	H
Heating boilers (rated 15 pounds and under steam pressure per square inch), warm-air furnaces, radiators, convectors, and oil burners, and specially fabricated parts and accessories, n.e.c.	61481-61522	H
Axes, adzes, hatchets, and edged agricultural hand tools	61534	H
Crosscut, hand, back, and other saws, n.e.c., and specially fabricated parts and accessories, except blades for: hacksaws, circular saws, steel band, pit, drag, and mill saws (61545-61552)	61569	H
Metal manufactures—Continued		
Hand hoes, rakes, forks, shovels, spades, scoops, and drainage tools	61610-61620	H
Bolts, screws, nuts, rivets, and washers, metal other than iron or steel	61812	H
Boat spikes, iron and steel	61814	H
Builders' hardware, n.e.c., and specially fabricated parts and accessories, n.e.c., other than iron and steel	61822	H
Car and marine hardware, n.e.c., and specially fabricated parts and accessories, n.e.c., other than iron and steel	61834	H
Pipe fittings, metal, except copper-base alloy (61859)	61849-61862	H
Steel structural shapes, fabricated; and steel plates, fabricated, punched, or shaped, n.e.c.	61864-61867	H
Penstock for conducting water (sections fabricated from rolled steel plate)	61871	H
Steel culverts, corrugated or plain, coated or uncoated, with or without accessories	61877	H
Steel fence posts, gates, and fittings (all steel grades)	61879	H
Buildings, metal, prefabricated and knockdown, with or without appurtenances	61886	H
Metal lath	61909	H
Construction materials, n.e.c., iron and steel	61920	H
Construction materials, n.e.c., aluminum and other nonferrous metals, n.e.c., other than door and window sash, sections, and frames	61922	H
Chains, iron and steel, n.e.c., and specially fabricated parts and accessories, n.e.c.	61930	H
Lead solder	61946	H
Fencing and netting (all metals)	61948	H
Wire cloth, iron and steel	61950	H
Wire-reinforcing fabric, iron and steel	61954	H
Wire bed and cushion springs (all steel grades)	61960	H
Cotton bale ties and buckles, standard and high density	61962	H
Aluminum foil and leaf	61989	H
Iron and steel manufactures, n.e.c., and parts, n.e.c., the following only: punchings, except electrical steel; steel shot; stainless steel packing; and tubular steel scaffolding	61991	H
Aluminum, perforated plates and sheets; imitation gold leaf; lead foil; lead collapsible tubes; tin foil; tin collapsible tubes; and Tenaplate; tin shot; solder materials	61995	H
Ferroalloys:		
Ferroalloys, except ferromolybdenum (62230), Ferroboron, ferrocolumbium, ferrocolumbium-tantalum, ferrotantalum, and ferrozirconium containing more than 50 percent zirconium (62290)	62133-62290	H
Aluminum ores, concentrates, scrap and semifabricated forms:		
Aluminum ores and concentrates	63001	H
Aluminum and aluminum alloy scrap, crude forms, and plates and sheets, except that which contains (1) an average copper content of 1 percent or more irrespective of other elements; or (2) an average copper content of less than 1 percent and and (a) a zinc content of 4 percent or more, (b) a silicon content of 3.5 percent or more, or (c) a magnesium content of 9.5 percent or more	63005-63035	H
Aluminum and aluminum alloy wire and semifabricated forms, n.e.c., except that which contains (1) an average copper content of 1 percent or more irrespective of other elements; or (2) an average copper content of less than 1 percent and (a) a zinc content of 4 percent or more, (b) a silicon content of 3.5 percent or more, or (c) a magnesium content of 9.5 per cent or more	63061-63065	H
Lead ores, concentrates, scrap, and semifabricated forms	65040-65159	H
Nickel ores, concentrates, scrap, and semifabricated forms:		
Nickel catalysts	65475	H
Tin ores, concentrates, scrap, and semifabricated forms	65655-65680	H

Commodity description	Schedule B No.	Symbol
Zinc ores, concentrates, scrap, and semifabricated forms	65701-65895	H
Other nonferrous ores, concentrates, scrap, and semifabricated forms (except precious):		
Antimony ores, concentrates, metal and alloys in crude and semifabricated forms, n.e.c.	66401-66405	H
Bismuth matte, slimes, residues, and base bullion	66413	H
Cadmium metal, alloys, dross, flue dust, residues, and scrap	66417	H
Cerium ores, metals, alloys, and lighter flints or ferrocerium	66419-66421	H
Chromite ores and concentrates; chromium and chromium alloys in crude form, scrap, and semifabricated forms, n.e.c.	66423-66427	H
Manganese ores and concentrates containing 10 percent or more manganese; manganese and manganese alloys in crude form, scrap, and semifabricated forms, n.e.c.	66439-66443	H
Magnesium metal and alloys in crude form, scrap and semifabricated forms, n.e.c., containing less than 0.4 percent zirconium or less than 1 percent of rare earth metals	66445-66447	H
Radium metal and alloys (radium content)	66467	H
Titanium ores and concentrates	66477	H
Tungsten ores, concentrates, metal and alloys in crude form, and scrap	66485-66487	H
Vanadium ores, waste, and alloying materials	66491-66495	H
Zirconium ores and concentrates; and zirconium metal and alloys in crude form, scrap, and semifabricated forms containing less than 50 percent zirconium	66497-66520	H
Nonferrous metallic ores and concentrates, n.e.c., except lithium	66530	H
Nonferrous metals and alloys in crude form, scrap, and semifabricated forms, n.e.c., except: boron metal and alloys containing 10 percent or more boron; columbium (niobium) bearing slag; crystalline silicon containing 99.9 percent silicon or over; gallium metal; germanium metal; hafnium metal; lithium metal and alloys; polonium metal; tantalum bearing slag; thermo bimetal, thermometal, and thermostatic metal; and yttrium metal and alloys	66540	H
Precious metals and plated ware, n.e.c.:		
Silver ore, bullion, and coin	68184-68198	H
Platinum ore and concentrates; and the following metals and alloys: platinum, palladium, rhodium, iridium, osmiridium, ruthenium, and osmium	69223-69229	H
Gold leaf and foil	69971	H
Electrical machinery and apparatus:		
Dry and wet cell batteries (other than storage batteries)	70170-70180	H
Transmission and distribution switchgear	70310-70335	H
Lightning arresters and choke coils, n.e.c., and specially fabricated parts and accessories, n.e.c.	70347	H
Automobile radio receivers (except communication receivers)	70799	H
Home-type radio receivers	70803-70811	H
Telephone instruments	70891	H
Conduit, fittings, outlet and switch boxes, n.e.c., and specially fabricated parts and accessories, n.e.c.	70941-70945	H
Interior wiring devices, n.e.c., and specially fabricated parts and accessories, n.e.c.	70950	H
Fluorescent lighting fixtures	70955	H
Incandescent lighting fixtures, interior	70957	H
Construction, excavating, mining, oil field, and related machinery:		
Logging sulkies, and specially fabricated parts and accessories; and logging arches, except self-propelled of 135 net brake horsepower and over, and specially fabricated parts and accessories	72245	H
Textile, sewing, and shoe machinery: Domestic sewing machines, and specially fabricated parts and accessories, n.e.c.	75515-75517	H
Office, accounting, and computing machines:		
Automatic typewriters and other typewriters, n.e.c., not presently exportable under General License GHK	77745	H
Office, etc., machines—Continued		
Dictating, transcribing and recording machines designed as office machines	77790	H
Agricultural machines, implements, and parts:		
Power sprayers, including traction type, agricultural and pesticide	78073	H
Power dusters, including traction type, agricultural and pesticide	78077	H
Portable and semi-portable irrigation systems, farm-type (including specially fabricated pipe)	78705	H
Parts and accessories, n.e.c., specially fabricated for agricultural and similar home-type machines, outfits, and attachments, n.e.c.	78719	H
Tractors, n.e.c., parts, and accessories:		
Wheel type tractors, new (other than contractors' and industrial types)	78750-78780	H
Automobiles, trucks, busses, and trailers, parts, accessories and service equipment:		
Heaters, air conditioners, and specially fabricated parts, n.e.c., for commercial automobiles, trucks and busses, except for assembly	79271	H
Other vehicles and parts:		
Motorcycles, and specially fabricated parts and accessories, n.e.c.	79720-79730	H
Coal-tar and other cyclic chemical products:		
Creosote or dead oil	80100	H
Medicinal and pharmaceutical preparations:		
Castor oil, medicinal grade, in containers over 16 ounce	81110	H
Salves and ointments for burns, cuts, skin diseases, insect bites, and inflammation, n.e.c.	81520	H
Asthma, catarrh, and hay-fever preparations including inhalants, except salves, ointments, and vaccines	81550	H
Headache, neuralgia and pain remedies	81670	H
Drugs and medicinal preparations in dosage form, the following only: eye lotions; eye drops; vaginal creams and jellies; suppositories, glycerin and medicated; caustic and styptic pencils; and patented medicinal preparations of crude drugs and herb extracts	81800	H
Chemical specialties:		
Water softeners, water purifiers, and boiler feed-water compounds, n.e.c.	82400	H
Odoriferous chemicals of natural origin	82936	H
Industrial chemicals (exclusive of medicinal chemicals, U.S.P. and N.F.):		
Hydrochloric or muriatic acid	83070	H
Sodium silicate or water glass	83640	H
Sodium sulfate	83795	H
Fertilizers and fertilizer materials:		
Nitrogenous organic waste materials	85100	H
Scientific and professional instruments, apparatus, and supplies, n.e.c.:		
Binoculars	91493	H
Toys, games, athletic and sporting goods:		
Fishing tackle, equipment, and parts suitable for commercial fishing	94210-94215	H
Miscellaneous commodities, n.e.c.:		
Electric clocks not presently exportable under General License GHK	95700	H
Non-electric clocks, and specially fabricated parts and accessories for electric and non-electric clocks, not presently exportable under General License GHK	95790	H

This item of the amendment shall become effective as of January 21, 1960.

b. The following entry is deleted:

Commodity description	Schedule B No.
Paper, related products and manufactures: Polytetrafluoroethylene (e.g., Teflon) tape	48060

This item of the amendment shall become effective as of January 28, 1960, except that with respect to shipments to Hong Kong and Macao which were on dock for lading, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a.m., January 28, 1960, may be exported under the previous general license provisions up to and including February 23, 1960. Any such shipment not laden aboard the exporting carrier on or before February 23, 1960, requires a validated license for export.

2. Section 371.52 *Supplement 2; Commodities destined to Poland (including Danzig) which are excepted from General License GRO* is amended by adding the following commodities:

Schedule B No.	Commodity
83440	Bromine pentafluoride; and bromine trifluoride.

This item of the amendment shall become effective with respect to bromine trifluoride as of January 21, 1960, and with respect to bromine pentafluoride it shall be come effective as of January 28, 1960, except that shipments of bromine pentafluoride to Poland (including Danzig) which were on dock for lading, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a.m., January 28, 1960, may be exported under the previous general license provisions up to and including February 23, 1960. Any such shipment not laden aboard the exporting carrier on or before February 23, 1960, requires a validated license for export.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023. E.O. 9630, 10 F.R. 12245, 3 CFR, 1945 Supp., E.O. 9919, 13 F.R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,
Bureau of Foreign Commerce.

[F.R. Doc. 60-1019; Filed, Feb. 3, 1960; 8:45 a.m.]

[9th Gen. Rev. of Export Regs., Amdt. P.L. 20 [1]]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

Miscellaneous Amendments

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

1. The following commodities are deleted from the Positive List:

[1] This amendment was published in Current Export Bulletin 826, dated January 21, 1960.

Dept. of Commerce Schedule B No.	Commodity description
	Air-conditioning and refrigerating equipment, n.e.c., and parts, n.e.c. (electric, gas, gasoline and kerosene operated):
76465	Reciprocating compressor units, over 10 horsepower and not over 30 horsepower, having a designed capacity of 60 cfm or over, and all flow-contact surfaces made of aluminum, nickel, or alloy containing 60-percent or more nickel. (Specify cfm capacity and kind of metal, and if nickel alloy, state percentage of nickel content.)
76468	Reciprocating compressor units: (a) requiring a drive unit rated at 900 horsepower or more, or (b) requiring a drive unit rated at 300 horsepower or more when designed for a delivery pressure exceeding 450 psi. (Specify delivery pressure and horsepower.)
76468	Reciprocating compressor units over 30 horsepower, having a designed capacity of 60 cfm or over, and all flow-contact surfaces made of aluminum, nickel, or alloy containing 60 percent or more nickel (Specify cfm capacity and kind of metal, and if nickel alloy, state percentage of nickel content.)
76471	Centrifugal refrigerating units: (a) requiring a drive unit rated at 900 horsepower or more, or (b) requiring a drive unit rated at 300 horsepower or more when designed for a delivery pressure exceeding 450 psi. (Specify delivery pressure and horsepower.)

Dept. of Commerce Schedule B No.	Commodity description
	Air-conditioning and refrigerating equipment, n.e.c., and parts, n.e.c. (electric, gas, gasoline and kerosene operated)—Continued
76471	Centrifugal refrigerating units having a designed capacity of 60 cfm or over, and all flow-contact surfaces made of aluminum, nickel or alloy containing 60 percent or more nickel. (Specify cfm capacity and kind of metal, and if nickel alloy, state percentage of nickel content.)
76603	Parts, n.e.c., specially fabricated for air-conditioning and refrigerating equipment included on the Positive List under Schedule B Nos. 76465 through 76471 for foreign assembly or manufacture.
76605	Parts, n.e.c., specially fabricated for air-conditioning and refrigerating equipment included on the Positive List under Schedule B Nos. 76465 through 76471 for replacement.
	Gases, compressed, liquefied and solidified, n.e.c.:
83959	Bromine trifluoride.

This item of the amendment shall become effective as of January 21, 1960.

2. The following commodities are added to the Positive List:

Dept. of Commerce Schedule B No.	Commodity description	Unit	Processing code and related commodity group	GLV dollar value limits	Validated license required	Commodity lists
	Welding rods and wires, including brazing rods:					
61944	Columbium and columbium alloy welding rods, wires and electrodes (including brazing rods).[1]	Lb.	MINL 1	100	RO	A
61944	Magnesium alloy welding rods, wires, and electrodes (including brazing rods) containing 0.4 percent or more zirconium, or 1 percent or more of rare earth metals (cerium misch metal). (Specify by name.) [1]	Lb.	MINL 1	100	RO	A
61944	Tantalum and tantalum alloy welding rods, wires and electrodes (including brazing rods).[1]	Lb.	MINL 1	100	RO	A
91599	Surgical and medical apparatus, n.e.c., wholly made of polytetrafluoroethylene (e.g., Teflon).[1]	----------	SATE 1	25	RO	A

[1] On or after March 7, 1960, an Import Certificate (or a Hong Kong Import License) will be required in support of a license application covering exports of this commodity to the countries specified in § 373.2 of this chapter.

This item of the amendment shall become effective as of January 28, 1960, except as otherwise indicated in the footnote.

3. The following entries set forth below are substituted for entries presently on the Positive List. Where the Positive List contains more than one entry under a Schedule B number, the entry to be superseded is identified by a numerical reference in parentheses following the commodity description in the revised entry:

Dept. of Commerce Schedule B No.	Commodity description	Unit	Processing code and related commodity group	GLV dollar value limits	Validated license required	Commodity lists
	Military aircraft:					
79337	Cargo transports, military, new and used, without armament, the following models only: C-46, C-47, and C-54. (Specify name of manufacturer and manufacturer's model designation.) [18]	No.	TRAN 2	None	RO	
79353	Passenger transports, military, new and used, without armament, 15,000 lbs. and over but less than 30,000 lbs. empty weight, the following model only: C-47. (Specify name of manufacturer and manufacturer's model designation.) [18]	No.	TRAN 2	None	RO	
79355	Passenger transports, military, new and used, without armament, 30,000 lbs. and over empty weight, the following models only: C-46 and C-54. (Specify name of manufacturer and manufacturer's model designation.) [18]	No.	TRAN 2	None	RO	
	Civil aircraft (commercial and civilian) 3,000 lbs. and over empty weight, n.e.c. [Report parts in 79381-79489; new cargo transports and lighter-than-air aircraft in 79379; used or rebuilt in 79369.]:					
79361	Passenger transports, civil, new, 3,000 lbs. and over but less than 15,000 lbs. empty weight. (Specify name of manufacturer and manufacturer's model designation.) [18]	No.	TRAN 2	None	RO	E
79363	Passenger transports, civil, new, 15,000 lbs. and over but less than 30,000 lbs. empty weight. (Specify name of manufacturer and manufacturer's model designation.) [18]	No.	TRAN 2	None	RO	E
79365	Passenger transports, civil, new, 90,000 lbs. and over empty weight, of types and models which have been in normal civil use for two years or less. (Specify name of manufacturer and manufacturer's model designation.) [18]	No.	TRAN 3	None	RO	A E
79365	Other passenger transports, civil, new, 30,000 lbs. and over empty weight. (Specify name of manufacturer and manufacturer's model designation.) (2) [18]	No.	TRAN 2	None	RO	E
79367	Rotary-wing aircraft, civil, new, 3,000 lbs. and over empty weight. (Specify name of manufacturer and manufacturer's model designation.) [18]	No.	TRAN 2	None	RO	E
79369	Civil aircraft, used and rebuilt (including converted or demilitarized), 90,000 lbs. and over empty weight, of types and models which have been in normal civil use for two years of less. (Specify name of manufacturer and manufacturer's model designation.) (1) [18]	No.	TRAN 3	None	RO	A E
79369	Other civil aircraft, used and rebuilt (including converted or demilitarized), 3,000 lbs. and over empty weight. (Specify name of manufacturer and manufacturer's model designation.) (2) [18]	No.	TRAN 2	None	RO	E
	Civil aircraft (commercial and civilian), under 3,000 lbs. empty weight, n.e.c.:					
79371	Utility, personal, and liaison aircraft, civil, new, 3 places and under. (Specify name of manufacturer and manufacturer's model designation.) [18]	No.	TRAN 2	None	RO	E
79373	Utility, personal, and liaison aircraft, civil, new 4 places and over. (Specify name of manufacturer and manufacturer's model designation.) [18]	No.	TRAN 2	None	RO	E
79375	Rotary-wing aircraft, civil, new, under 3,000 lbs. empty weight. (Specify name of manufacturer and manufacturer's model designation.) [18]	No.	TRAN 2	None	RO	E
79377	Civil aircraft, used and rebuilt (including converted or demilitarized) under 3,000 lbs. empty weight. (Specify name of manufacturer and manufacturer's model designation.) [18]	No.	TRAN 2	None	RO	E
79379	Civil aircraft, new, n.e.c., 90,000 lbs. and over empty weight, of types and models which have been in normal civil use for two years or less. (Specify name of manufacturer and manufacturer's model designation.) [Report used and rebuilt in 79369 and 79377.] (1) [18]	No.	TRAN 2	None	RO	A E
79379	Other civil aircraft, new, n.e.c. (Specify name of manufacturer and manufacturer's model designation.) [Report used and rebuilt in 79369 and 79377.] (2) [18]	No.	TRAN 2	None	RO	E

[18] The reporting requirements are revised to specify that applications for export licenses covering the exportation of aircraft shall indicate the name of the aircraft's manufacturer and the model number designated by the manufacturer.

This item of the amendment shall become effective as of January 21, 1960.

Shipments of any commodities removed from general license to Country Group R or Country Group O destinations as a result of changes set forth in item 2 of this amendment which were on dock for lading, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a.m., January 28, 1960, may be exported under the previous general license provisions up to and including February 23, 1960. Any such shipment not laden aboard the exporting carrier on or before February 23, 1960 requires a validated license for export.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023. E.O. 9630, 10 F.R. 12245, 3 CFR, 1945 Supp., E.O. 9919, 13 F.R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,
Bureau of Foreign Commerce.

[F.R. Doc. 60-1020; Filed, Feb. 3, 1960; 8:45 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6452]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Trademark and Trade Name Expenditures

On November 25, 1959, notice of proposed rule making regarding amendments to the Income Tax Regulations under sections 167 (relating to depreciation), 177 (relating to trademark and trade name expenditures), and 1016 (relating to adjustments to basis) of the Internal Revenue Code of 1954, was published in the FEDERAL REGISTER (24 F.R. 9479). The amendments were proposed to conform the Income Tax Regulations to section 4 of the Act of June 29, 1956 (Public Law 629, 84th Cong., 70 Stat. 406). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted without change. These regulations supersede paragraph 26 of the temporary rules relating to income tax (26 CFR (1954) Parts 1 to 19 (1959 Rev.) par. 26, p. 10), added by Treasury Decision 6209, approved October 26, 1956 (21 F.R. 8319).

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] WILLIAM H. LOEB,
Acting Commissioner of Internal Revenue.

Approved: January 29, 1960.

DAVID A. LINDSAY,
Acting Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 4 of the Act of June 29, 1956 (Public Law 629, 84th Cong., 70 Stat. 406), relating to trademark and trade name expenditure paid or incurred during any taxable year beginning after December 31, 1955, such regulations are amended as follows:

§ 1.167 [Amendment]

PARAGRAPH 1. Section 1.167(a)-3 is amended by adding at the end thereof the following sentence: "For rules with respect to trademark and trade name expenditures, see section 177 and the regulations thereunder."

PAR. 2. The following is inserted immediately after § 1.176:

§ 1.177 Statutory provisions; trademark and trade name expenditures.

SEC. 177. *Trademark and trade name expenditures*—(a) *Election to amortize.* Any trademark or trade name expenditure paid or incurred during a taxable year beginning after December 31, 1955, may, at the election of the taxpayer (made in accordance with regulations prescribed by the Secretary or his delegate), be treated as a deferred expense. In computing taxable income, all expenditures paid or incurred during the taxable year which are so treated shall be allowed as a deduction ratably over such period of not less than 60 months (beginning with the first month in such taxable year) as may be selected by the taxpayer in making such election. The expenditures so treated are expenditures properly chargeable to capital account for purposes of section 1016(a)(1) (relating to adjustments to basis of property).

(b) *Trademark and trade name expenditures defined.* For purposes of subsection (a), the term "trademark or trade name expenditure" means any expenditure which—

(1) Is directly connected with the acquisition, protection, expansion, registration (Federal, State, or foreign), or defense of a trademark or trade name;

(2) Is chargeable to capital account; and

(3) Is not part of the consideration paid for a trademark, trade name, or business.

(c) *Time for and scope of election.* The election provided by subsection (a) shall be made within the time prescribed by law (including extensions thereof) for filing the return for the taxable year during which the expenditure is paid or incurred. The period selected by the taxpayer under subsection (a) with respect to the expenditures paid or incurred during the taxable year which are treated as deferred expenses shall be adhered to in computing his taxable income for the taxable year for which the election is made and all subsequent years.

(d) *Cross reference.* For adjustments to basis of property for amounts allowed as deductions for expenditures treated as deferred expenses under this section, see section 1016(a)(16).

[Sec. 177 as added by sec. 4(a), Pub. Law 629, 84th Cong., 70 Stat. 406]

§ 1.177-1 Election to amortize trademark and trade name expenditures.

(a) *In general.* (1) Section 177 provides that a taxpayer may elect to treat any trademark or trade name expenditure (defined in section 177(b) and paragraph (b) of this section) paid or incurred during a taxable year beginning after December 31, 1955, as a deferred expense. Any expenditure so treated shall be allowed as a deduction ratably over the number of continuous months (not less than 60) selected by the taxpayer, beginning with the first month of the taxable year in which the expenditure is paid or incurred. The term "paid or incurred", as used in section 177 and this section, is to be construed according to the method of accounting used by the taxpayer in computing taxable income. See section 7701(a)(25). An election under section 177 is irrevocable insofar as it applies to a particular trademark or trade name expenditure, but separate elections may be made with respect to other trademark or trade name expenditures. See subparagraph (3) of this paragraph. See also paragraph (c) of this section for time and manner of making election.

(2) The number of continuous months selected by the taxpayer may be equal to or greater, but not less, than 60, but in any event the deduction must begin with the first month of the taxable year in which the expenditure is paid or incurred. The number of months selected by the taxpayer at the time he makes the election may not be subsequently changed but shall be adhered to in computing taxable income for the taxable year for which the election is made and all subsequent taxable years.

(3) Section 177 permits an election by the taxpayer for each separate trademark or trade name expenditure. Thus, a taxpayer who has several trademark or trade name expenditures in a taxable year may elect under section 177 with respect to some of such expenditures and not elect with respect to the other expenditures. Also, a taxpayer may choose different amortization periods for different trademark or trade name expenditures with respect to which he has made the election under section 177.

(4) All trademark and trade name expenditures are properly chargeable to capital account for purposes of section 1016(a)(1), relating to adjustments to basis of property, whether or not they are to be amortized under section 177. However, the trademark and trade name expenditures with respect to which the taxpayer has made an election under section 177 must be kept in a separate account in the taxpayer's books and records. See paragraph (c) of this section. See also section 1016(a)(16) and paragraph (m) of § 1.1016-5 for adjustments to basis of property for amounts allowed as deductions under section 177 and this section.

(b) *Trademark and trade name expenditures defined.* (1) The term "trademark and trade name expenditure", as used in section 177 and this section, means any expenditure which—

(i) Is directly connected with the acquisition, protection, expansion, registration (Federal, State, or foreign), or defense of a trademark or trade name;

(ii) Is chargeable to capital account; and

(iii) Is not part of the consideration or purchase price paid for a trademark, trade name, or a business (including goodwill) already in existence.

An expenditure which fails to meet one or more of these tests is not a trademark or trade name expenditure for purposes of section 177 and this section. Amounts paid in connection with the acquisition of an existing trademark or

trade name may not be amortized under section 177 even though such amounts may be paid to protect or expand a previously owned trademark or trade name through purchase of a competitive trademark. Similarly, the provisions of section 177 and this section are not applicable to expenditures paid or incurred for an agreement to discontinue the use of a trademark or trade name (if the effect of the agreement is the purchase of a trademark or trade name) nor to expenditures paid or incurred in acquiring franchises or rights to the use of a trademark or trade name. Generally, section 177 will apply to expenditures such as legal fees and other costs in connection with the acquisition of a certificate of registration of a trademark from the United States or other government, artists' fees and similar expenses connected with the design of a distinctive mark for a product or service, litigation expenses connected with infringement proceedings, and costs in connection with the preparation and filing of an application for renewal of registration and continued use of a trademark.

(2) Expenditures for a trademark or trade name which has a determinable useful life and which would otherwise be depreciable under section 167 must be deferred and amortized under section 177 if an election under section 177 is made with respect to such expenditures.

(3) The following examples illustrate the application of section 177:

Example (1). X Corporation engages an artist to design a distinctive trademark for its product. At the same time it retains an attorney to prepare the papers necessary for registration of this trademark with the Federal Government. The fees of both the artist and the attorney may be amortized under section 177 over a period of not less than 60 continuous months.

Example (2). Y Corporation wishes to expand the market served by its product. It acquires a competing firm in a neighboring State. The contract of sale provides for a purchase price of $250,000 of which $225,000 shall constitute payment for physical assets and $25,000 for the trademark and goodwill. No part of the purchase price may be amortized under section 177.

Example (3). M Corporation brings suit against N Corporation for infringement of M's trademark. The costs of this litigation may be amortized under section 177.

(c) *Time and manner of making election.* (1) A taxpayer who elects to defer and amortize any trademark or trade name expenditure paid or incurred during a taxable year beginning after December 31, 1955, shall, within the time prescribed by law (including extensions thereof) for filing his income tax return for that year, attach to his income tax return a statement signifying his election under section 177 and setting forth the following:

(i) Name and address of the taxpayer, and the taxable year involved;

(ii) An identification of the character and amount of each expenditure to which the election applies and the number of continuous months (not less than 60) during which the expenditures are to be ratably deducted; and

(iii) A declaration by the taxpayer that he will make an accounting segregation on his books and records of the trademark and trade name expenditures for which the election has been made, sufficient to permit an identification of the character and amount of each such expenditure and the amortization period selected for each expenditure.

(2) The provisions of subparagraph (1) of this paragraph shall apply to income tax returns and statements required to be filed more than 90 days after the date of publication in the FEDERAL REGISTER of regulations under section 177 as a Treasury decision. Elections properly made in accordance with the provisions of Treasury Decision 6209, approved October 26, 1956 (21 F.R. 8319), continue in effect.

§ 1.1016 [Amendment]

PAR. 3. Section 1.1016 is amended—

(A) By striking out the period at the end of section 1016(a)(15) and inserting in lieu thereof a semicolon and by adding at the end of section 1016(a) the following new paragraph:

(16) For amounts allowed as deductions for expenditures treated as deferred expenses under section 177 (relating to trademark and trade name expenditures) and resulting in a reduction of the taxpayer's taxes under this subtitle, but not less than the amounts allowable under such section for the taxable year and prior years.

(B) By inserting the following historical note after section 1016(b):

[Sec. 1016 as amended by sec. 4(c), Act of June 29, 1956 (Pub. Law 629, 84th Cong., 70 Stat. 407)]

§ 1.1016–5 [Amendment]

PAR. 4. Section 1.1016–5 is amended by adding after paragraph (l) the following new paragraph:

(m) *Trademark and trade name expenditures.* Trademark and trade name expenditures treated as deferred expenses under section 177 are chargeable to capital account and shall be an adjustment to the basis of the property to which they relate. The basis so adjusted shall be reduced by the amount of such expenditures allowed as deductions which results in a reduction for any taxable year of the taxpayer's taxes under subtitle A (other than chapter 2, relating to tax on self-employment income) of the Internal Revenue Code of 1954, but not less than the amounts allowable under such section for the taxable year and prior years. This amount is considered as the "tax-benefit amount allowed" and shall be determined in accordance with paragraph (e) of § 1.1016–3.

(68A Stat. 917; 26 U.S.C. 7805)

[F.R. Doc. 60–1129; Filed, Feb. 3, 1960; 8:49 a.m.]

[T.D. 6451]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Deduction of Medical Expenses

On November 14, 1959, a notice of proposed rule making with respect to amendments of the Income Tax Regulations (26 CFR Part 1) under section 213 (relating to the deduction for medical expenses) of the Internal Revenue Code of 1954, conforming such regulations to section 16 and 17 of the Technical Amendments Act of 1958 (72 Stat. 1613), was published in the FEDERAL REGISTER (24 F.R. 9267). No objection to the rules proposed having been received during the 30-day period prescribed in the notice, the amendments to the regulations as so published are hereby adopted, subject to the change set forth below, and supersede § 18.1–4 of Treasury Decision 6335 (23 F.R. 8979), approved November 13, 1958:

The last sentence of paragraph (c)(1) of § 1.213–2, as set forth in paragraph (3) of the notice of proposed rule making, is revised to read as follows: "For purposes of section 213(g), housekeeping shall be considered the substantial gainful activity of an individual whose primary activity is housekeeping."

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: January 29, 1960.

DAVID A. LINDSAY,
Acting Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to sections 16 and 17 of the Technical Amendments Act of 1958 (72 Stat. 1613), such regulations are amended as follows:

§ 1.213 [Amendment]

PARAGRAPH 1. Section 1.213 is amended:

(A) By striking the words "claimed or" in section 213(d)(2)(A).

(B) By striking the word "The" at the beginning of section 213(c) and inserting in lieu thereof "Except as provided in subsection (g), the".

(C) By adding at the end of section 213 the following new subsection:

(g) *Maximum limitation if taxpayer or spouse has attained age 65 and is disabled—* (1) *Special rule.* Subject to the provisions of paragraph (2), the deduction under this section shall not exceed—

(A) $15,000, if the taxpayer has attained the age of 65 before the close of the taxable year and is disabled, or if his spouse has attained the age of 65 before the close of the taxable year and is disabled and if his spouse does not make a separate return for the taxable year, or

(B) $30,000, if both the taxpayer and his spouse have attained the age of 65 before the close of the taxable year and are disabled and if the taxpayer files a joint return with his spouse under section 6013.

(2) *Amounts taken into account.* For purposes of paragraph (1)—

(A) Amounts paid by the taxpayer during the taxable year for medical care, other than amounts paid for—

(i) His medical care, if he has attained the age of 65 before the close of the taxable year and is disabled, or

(ii) The medical care of his spouse, if his spouse has attained the age of 65 before the close of the taxable year and is disabled,

shall be taken into account only to the extent that such amounts do not exceed the maximum limitation provided in subsection (c) which would (but for the provisions of this subsection) apply to the taxpayer for the taxable year;

(B) If the taxpayer has attained the age of 65 before the close of the taxable year and is disabled, amounts paid by him during the taxable year for his medical care shall be taken into account only to the extent that such amounts do not exceed $15,000; and

(C) If the spouse of the taxpayer has attained the age of 65 before the close of the taxable year and is disabled, amounts paid by the taxpayer during the taxable year for the medical care of his spouse shall be taken into account only to the extent that such amounts do not exceed $15,000.

(3) *Meaning of disabled.* For purposes of paragraph (1), an individual shall be considered to be disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to be disabled unless he furnishes proof of the existence thereof in such form and manner as the Secretary or his delegate may require.

(4) *Determination of status.* For purposes of paragraph (1), the determination as to whether the taxpayer or his spouse is disabled shall be made as of the close of the taxable year of the taxpayer, except that if his spouse dies during such taxable year such determination shall be made with respect to his spouse as of the time of such death.

(D) By adding at the end thereof the following historical note:

[Sec. 213 as amended by secs. 16 and 17, Technical Amendments Act 1958 (72 Stat. 1613)]

§ 1.213–1 [Amendment]

PAR. 2. Section 1.213–1 is amended:

(A) By revising the second sentence of paragraph (a)(4)(i) to read as follows: "In such a case the taxpayer may deduct, subject to the 1 percent limitation with respect to medicine and drugs set forth in paragraph (b) of this section and subject to the maximum amount allowable as described in § 1.213–2 or paragraph (c) of this section:

(*a*) The amount of all payments for the medical care of the taxpayer and his spouse, and

(*b*) The amount by which his payments for the medical care of his dependents exceed 3 percent of his adjusted gross income."

(B) By striking "The" in paragraph (c)(1) and inserting in lieu thereof "Except as provided in section 213(g) and § 1.213–2 (relating to certain aged and disabled individuals), the".

(C) By inserting immediately after paragraph (c)(2) the following new subparagraph:

(3) For the maximum deduction allowable if the taxpayer or his spouse is age 65 or over and is disabled, see § 1.213–2.

PAR. 3. There is inserted immediately after § 1.213–1 the following new section:

§ 1.213–2 Maximum limitation on deduction if taxpayer or spouse is age 65 or over and is disabled.

(a) *In general.* For taxable years beginning after December 31, 1957, section 213(g) provides that the limitation of section 213(c) on the amount of deduction allowable for medical expenses shall not apply in certain cases. For any such taxable year, the maximum amount that is deductible under section 213 for medical expenses shall be:

(1) $15,000, if the taxpayer has attained the age of 65 before the close of the taxable year and is disabled, or

(2) $15,000, if his spouse has attained the age of 65 before the close of the taxable year and is disabled and if his spouse does not file a separate return for the taxable year, or

(3) $30,000, if both the taxpayer and his spouse have attained the age of 65 before the close of the taxable year and are disabled and if they file a joint return under section 6013.

(b) *Includible medical expenses.* (1) (i) The increased deduction provided by section 213(g) is allowable only with respect to the medical expenses of the individual who qualifies for such increased deduction. Amounts spent for the medical care of a dependent, or for the spouse of the taxpayer if she is not age 65 or over and disabled, or for the taxpayer if he is not age 65 or over and disabled, are deductible only to the extent provided by section 213(c). Thus, if amounts are spent for the medical care of an individual who does not qualify for the increased deduction provided by section 213(g), it is necessary to determine the portion of such amounts that would be deductible under section 213(c), and only such portion of such expenses is deductible.

(ii) The application of this subparagraph may be illustrated by the following example in which H and W file a joint return and have no dependents:

Example. H, who is over age 65 but not disabled, spends $6,000 for medical care for himself during the taxable year and $9,000 for the medical care of W, who is age 67 and is disabled throughout the taxable year. As a result of the application of the provisions of this paragraph and section 213(c), H would be entitled to a deduction of $5,000 for expenses paid for his own medical care, while under section 213(g) he would be allowed a deduction of $9,000 for the medical care of W, a total of $14,000.

(2) Amounts paid for the medical care of an individual who qualifies for the increased deduction provided by section 213(g) are deductible only to the extent such amounts do not exceed $15,000. For example, if both the taxpayer and his spouse were age 65 or over and disabled, and the taxpayer paid $20,000 for medical care for himself, and $5,000 for medical care for his spouse, the maximum deduction allowable on a joint return would be $20,000 ($15,000 for the taxpayer and $5,000 for his spouse).

(3) Except as provided in section 213(b) and paragraph (b) of § 1.213–1, all amounts paid during the taxable year for the medical care of an individual who qualifies for the increased deduction provided by section 213(g) are deductible to the extent provided in such section. See paragraph (a)(4)(i) of § 1.213–1. For example, an individual who files his income tax return on the basis of a calendar year, and who is age 70 and becomes disabled in September, may, in determining his increased deduction under section 213(g), include all amounts which he paid during the taxable year for his medical care (except to the extent limited by section 213(b) and paragraph (b) of § 1.213–1), irrespective of whether the amounts are paid in connection with the disability which qualifies him for the increased deduction, or whether they were paid in connection with another illness.

(c) *Meaning of disabled.* (1) An individual shall be considered to be disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. In determining whether an individual's impairment makes him unable to engage in any substantial gainful activity, primary consideration shall be given to the nature and severity of his impairment. Consideration shall also be given to other factors such as the individual's education, training, and work experience. The substantial gainful activity to which section 213(g) refers is the activity, or a comparable activity, in which the individual customarily engaged prior to the arising of the disability (or prior to retirement if the individual was retired at the time the disability arose). For purposes of section 213(g), housekeeping shall be considered the substantial gainful activity of an individual whose primary activity is housekeeping.

(2) Whether or not the impairment in a particular case constitutes a disability is to be determined with reference to all the facts in the case. The following are examples of impairments which would ordinarily be considered as preventing substantial gainful activity:

(i) Loss of use of two limbs;

(ii) Certain progressive diseases which have resulted in the physical loss or atrophy of a limb, such as diabetes, multiple sclerosis, or Buerger's disease;

(iii) Diseases of the heart, lungs, or blood vessels which have resulted in major loss of heart or lung reserve as evidenced by X-ray, electrocardiogram, or other objective findings, so that despite medical treatment breathlessness, pain, or fatigue is produced on slight exertion, such as walking several blocks, using public transportation, or doing small chores;

(iv) Cancer which is inoperable and progressive;

(v) Damage to the brain or brain abnormality which has resulted in severe loss of judgment, intellect, orientation, or memory;

(vi) Mental diseases (e.g., psychosis or severe psychoneurosis) requiring continued institutionalization or constant supervision of the individual;

(vii) Loss or diminution of vision to the extent that the affected individual has a central visual acuity of no better than 20/200 in the better eye after best correction, or has a limitation in the fields of vision such that the widest diameter of the visual fields subtends an angle no greater than 20 degrees;

(viii) Permanent and total loss of speech;

(ix) Total deafness uncorrectible by a hearing aid.

The existence of one or more of those impairments (or of an impairment of

greater severity) will not, however, in and of itself always permit a finding that and individual is disabled as defined in section 213(g). Any impairment, whether of lesser or greater severity, must be evaluated in terms of whether it does in fact prevent the individual from engaging in his customary or any comparable substantial gainful activity.

(3) In order to meet the requirements of section 213(g), an impairment must be expected either to continue for a long and indefinite period or to result in death. Ordinarily, a terminal illness because of disease or injury would result in disability. Indefinite is used in the sense that it cannot reasonably be anticipated that the impairment will, in the foreseeable future, be so diminished as no longer to prevent substantial gainful activity. For example, an individual who suffers a bone fracture which prevents him from working for an extended period of time will not be considered disabled, if his recovery can be expected in the foreseeable future; if the fracture persistently fails to knit, the individual would ordinarily be considered disabled.

(4) An impairment which is remediable does not constitute a disability within the meaning of section 213(g). An individual will not be deemed disabled if, with reasonable effort and safety to himself, the impairment can be diminished to the extent that the individual will not be prevented by the impairment from engaging in his customary or any comparable substantial gainful activity.

(d) *Manner of proving the existence of disability.* (1) Any taxpayer whose medical expenses are in excess of the maximum limitations of section 213(c) and who seeks to apply the provisions of section 213(g) must submit the information required by paragraph (h) of § 1.213–1 and must establish that he or his spouse, as the case may be, has sustained an impairment as described in paragraph (c) of this section and that by reason of such impairment, he or his spouse, as the case may be, is unable, with his training, education, and work experience, to engage in his customary or any comparable substantial gainful activity, within the meaning of paragraph (c) of this section.

(2) For the first taxable year for which the taxpayer seeks to apply section 213(g) in regard to an individual, there must be submitted with his income tax return a doctor's statement as to the impairment of such individual upon which the taxpayer relies. There must also be submitted with the return a statement by the taxpayer with respect to the effect of the impairment upon such individual's substantial gainful activity. For subsequent taxable years, the taxpayer may, in lieu of such statements with respect to such individual, submit a statement declaring the continued existence (without substantial diminution) of the impairment and its continued effect upon the substantial gainful activity.

(e) *Determination of status.* (1) For purposes of this section, the determination as to whether a taxpayer or his spouse is disabled shall be made as of the close of the taxable year. Thus, if the taxpayer or his spouse is disabled as of the close of the taxpayer's taxable year, the individual concerned shall be considered disabled for the entire taxable year. If the taxpayer's spouse dies during the taxpayer's taxable year, the determination as to whether she is disabled for such taxable year shall be made as of the date of her death. However, if the disability of the taxpayer or his spouse terminates during the taxable year of the taxpayer, the individual concerned shall not be considered disabled for purposes of this section.

(2) For purposes of this section, the age of a taxpayer or his spouse shall be determined in accordance with the rules stated in paragraph (a)(4)(ii) of § 1.213–1.

[F.R. Doc. 60–1128; Filed, Feb. 3, 1960; 8:49 a.m.]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 6450]

PART 301—PROCEDURE AND ADMINISTRATION

Licensing and Registration and Closing Agreements and Compromises, Respectively

On September 23, 1959, notice of proposed rule making regarding the regulations under chapters 72 and 74 of the Internal Revenue Code of 1954, relating to licensing and registration and to closing agreements and compromises, respectively, was published in the FEDERAL REGISTER (24 F.R. 7645). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted, and are effective on and after August 17, 1954. The regulations under chapter 72 are applicable with respect to taxes imposed by the Internal Revenue Code of 1954, and the regulations under chapter 74 are applicable with respect to taxes imposed by the Internal Revenue Code of 1939 and the Internal Revenue Code of 1954.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: January 29, 1960.

DAVID A. LINDSAY,
Acting Secretary of the Treasury.

The regulations adopted under chapters 72 and 74 of the Internal Revenue Code of 1954 read as follows:

LICENSING AND REGISTRATION

LICENSING

REGISTRATION

CLOSING AGREEMENTS AND COMPROMISES

AUTHORITY: §§ 301.7001 to 301.7012, incl., and §§ 301.7121 to 301.7123, incl., issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

LICENSING AND REGISTRATION

LICENSING

§ 301.7001 Statutory provisions; collection of foreign items.

SEC. 7001. *Collection of foreign items*—(a) *License.* All persons undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Secretary or his delegate and shall be subject to such regulations enabling the Government to obtain the information required under subtitle A (relating to income taxes) as the Secretary or his delegate shall prescribe.

(b) *Penalty for failure to obtain license.* For penalty for failure to obtain the license provided for in this section, see section 7231.

§ 301.7001–1 License to collect foreign items.

(a) *In general.* Any bank or agent undertaking as a matter of business or for profit the collection of foreign items must obtain a license from the district director for the district in which is located its principal place of business within the United States. For definitions of the terms "foreign item" and "collection", see paragraph (b) of this section.

(b) *Definitions*—(1) *Foreign item.* The term "foreign item", as used in this section, means any item of interest upon the bonds of a foreign country or of a nonresident foreign corporation not having a fiscal or paying agent in the United States (including Puerto Rico as if a part of the United States), or any item of dividends upon the stock of such corporation.

(2) *Collection.* The term "collection", as used in this section, includes the following:

(i) The payment by the licensee of the foreign item in cash;

(ii) The crediting by the licensee of the account of the person presenting the foreign item;

(iii) The tentative crediting by the licensee of the account of the person presenting the foreign item until the amount of the foreign item is received by the licensee from abroad; and

(iv) The receipt of foreign items by the licensee for the purpose of transmitting them abroad for deposits.

(c) *Application for license.* Application for the license required by paragraph (a) of this section shall be made in writing and shall contain the following information:

(1) The name and present business of the person, partnership (including names of all partners), or corporation applying for the license;

(2) The address of the applicant's principal place of business in the United

States and of any branch offices in the United States;

(3) The date on which the applicant intends to commence the collection of foreign items; and

(4) An estimate of the aggregate amount of annual collections of foreign items (in dollars).

The application shall be signed by the applicant (a partner, in the case of a partnership, or an officer, in the case of a corporation).

(d) *Issuance of license.* The license will be issued by the district director in letter form without cost to the licensee.

(e) *Previous license holders.* Any person who has been issued a license under the corresponding provision of the Internal Revenue Code of 1939, or any prior revenue law, is not required to renew such license under this section.

(f) *Returns of information as to foreign items.* For provisions relating to the filing of returns as to foreign items, see section 6041(b) and § 1.6041–4 of the Income Tax Regulations (Part 1 of this chapter).

REGISTRATION

§ 301.7011 Statutory provisions; registration—persons paying a special tax.

Sec. 7011. *Registration—persons paying a special tax*—(a) *Requirement.* Every person engaged in any trade or business on which a special tax is imposed by law shall register with the Secretary or his delegate his name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.

(b) *Registration in case of death or change of location.* Any person exempted under the provisions of section 4905 from the payment of a special tax, shall register with the Secretary or his delegate in accordance with regulations prescribed by the Secretary or his delegate.

§ 301.7011–1 Registration of persons paying a special tax.

(a) *Persons required to register.* Every person engaged in a trade or business in respect of which a special tax is imposed by one of the following sections of the Internal Revenue Code of 1954 is required to register with the district director for the district in which such trade or business is located:

(1) Section 4461 (relating to special tax on persons who maintain for use or permit the use of coin-operated amusement or gaming devices);

(2) Section 4471 (relating to special tax on persons who operate a bowling alley, billiard room, or poolroom);

(3) Section 4821 (relating to special tax on manufacturers, wholesale dealers, and retail dealers of adulterated butter and manufacturers of process or renovated butter);

(4) Section 4841 (relating to special tax on manufacturers, wholesale dealers, and retail dealers of filled cheese);

(5) Section 5081 (relating to special tax on rectifiers of distilled spirits or wines);

(6) Section 5091 (relating to special tax on brewers);

(7) Section 5101 (relating to special tax on manufacturers of stills);

(8) Section 5111 (relating to special tax on wholesale dealers in liquors and wholesale dealers in beer); or

(9) Section 5121 (relating to special tax on retail dealers in liquors and retail dealers in beer).

For provisions with respect to the registration of persons subject to the special tax imposed by section 5131, relating to the tax on persons claiming drawback on distilled spirits used in the manufacture of certain nonbeverage products, see section 5132 and the regulations thereunder (Part 197 of this chapter). For cross references to provisions requiring registration of persons engaged in a trade or business in respect of which a special tax is imposed by other sections of the Internal Revenue Code of 1954, see § 301.7012.

(b) *Procedure for registration.* The registration required of a person by reason of his being engaged in a trade or business in respect of which one of the special taxes listed in paragraph (a) (1) to (9), inclusive, of this section is imposed shall be accomplished by executing and filing, in accordance with the instructions relating thereto, Special Tax Return Form 11 or Special Tax Return Form 11–B, whichever is applicable. Special Tax Return Form 11–B is used to report the special tax imposed by a section listed in paragraph (a) (1) or (2) of this section, and Special Tax Return Form 11 is used to report the special tax imposed by a section listed in paragraph (a) (3), (4), (5), (6), (7), (8), or (9) of this section.

(c) *Registration in case of change of ownership or location.* Any change of ownership or location of a trade or business in respect of which a special tax is imposed by a section listed in paragraph (a) (1), (2), (3), or (4) of this section must be registered with the Internal Revenue Service if, pursuant to section 4905 (relating to liability for special tax in case of death or change of location), such trade or business may be continued without the payment of any additional special tax. For requirements and procedures with respect to such registration, see section 4905 and the regulations thereunder.

§ 301.7012 Statutory provisions; cross references.

Sec. 7012. *Cross references*—(a) *Narcotic drugs.* For provisions relating to registration in relation to narcotic drugs, see section 4722.

(b) *Marihuana.* For provisions relating to registration in relation to marihuana, see section 4753.

(c) *Firearms.* For provisions relating to registration in connection with firearms, see sections 5802, 5841, and 5854.

(d) For provisions relating to registration in relation to the manufacture of playing cards, see section 4455.

(e) For provisions relating to registration in relation to the manufacture of white phosphorus matches, see section 4804(d).

(f) For special rules with respect to registration by persons engaged in receiving wagers, see section 4412.

(g) For provisions relating to registration in relation to the production or importation of gasoline, see section 4101.

(h) For provisions relating to registration in relation to the manufacture or production of lubricating oils, see section 4101.

(i) *Penalty.* (1) For penalty for failure to register, see section 7272.

(2) For other penalties for failure to register with respect to wagering, see section 7262.

[Sec. 7012 as amended by sec. 4(b)(7), Tax Rate Extension Act 1958 (72 Stat. 260)]

CLOSING AGREEMENTS AND COMPROMISES

§ 301.7121 Statutory provisions; closing agreements.

Sec. 7121. *Closing agreements*—(a) *Authorization.* The Secretary or his delegate is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) *Finality.* If such agreement is approved by the Secretary or his delegate (within such time as may be stated in such agreement, or later agreed to) such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee, or agent of the United States, and

(2) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

§ 301.7121–1 Closing agreements.

(a) *In general.* The Commissioner may enter into a written agreement with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period ending prior or subsequent to the date of such agreement. A closing agreement may be entered into in any case in which there appears to be an advantage in having the case permanently and conclusively closed, or if good and sufficient reasons are shown by the taxpayer for desiring a closing agreement and it is determined by the Commissioner that the United States will sustain no disadvantage through consummation of such an agreement.

(b) *Scope of closing agreement*—(1) *In general.* A closing agreement may be executed even though under the agreement the taxpayer is not liable for any tax for the period to which the agreement relates. There may be a series of closing agreements relating to the tax liability for a single period.

(2) *Taxable periods ended prior to date of closing agreement.* Closing agreements with respect to taxable periods ended prior to the date of the agreement may relate to the total tax liability of the taxpayer or to one or more separate items affecting the tax liability of the taxpayer, as, for example, the amount of gross income, deduction for losses, depreciation, depletion, the year in which an item of income is to be included in gross income, the year in which an item of loss is to be deducted, or the value of property on a specific date. A closing agreement may also be entered into for the purpose of allowing a deficiency dividend deduction under

section 547. In addition, a closing agreement constitutes a determination as defined by section 1313.

(3) *Taxable periods ending subsequent to date of closing agreement.* Closing agreements with respect to taxable periods ending subsequent to the date of the agreement may relate to one or more separate items affecting the tax liability of the taxpayer.

(4) *Illustration.* The provisions of this paragraph may be illustrated by the following example:

Example. A owns 500 shares of stock in the XYZ Corporation which he purchased prior to March 1, 1913. A is considering selling 200 shares of such stock but is uncertain as to the basis of the stock for the purpose of computing gain. Either prior or subsequent to the sale, a closing agreement may be entered into determining the market value of such stock as of March 1, 1913, which represents the basis for determining gain if it exceeds the adjusted basis otherwise determined as of such date. Not only may the closing agreement determine the basis for computing gain on the sale of the 200 shares of stock, but such an agreement may also determine the basis (unless or until the law is changed to require the use of some other factor to determine basis) of the remaining 300 shares of stock upon which gain will be computed in a subsequent sale.

(c) *Finality.* A closing agreement which is approved within such time as may be stated in such agreement, or later agreed to, shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee, or agent of the United States, and

(2) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

However, a closing agreement with respect to a taxable period ending subsequent to the date of the agreement is subject to any change in, or modification of, the law enacted subsequent to the date of the agreement and made applicable to such taxable period, and each closing agreement shall so recite.

(d) *Procedure with respect to closing agreements*—(1) *Submission of request.* A request for a closing agreement which relates to a prior taxable period may be submitted at any time before a case with respect to the tax liability involved is docketed in the Tax Court of the United States. All requests for closing agreements shall be submitted on forms prescribed by the Internal Revenue Service, which may be obtained from district directors of internal revenue. The procedure with respect to applications for entering into closing agreements shall be under such rules as may be prescribed from time to time by the Commissioner in accordance with the regulations under this section.

(2) *Collection, credit, or refund.* Any tax or deficiency in tax determined pursuant to a closing agreement shall be assessed and collected, and any overpayment determined pursuant thereto shall be credited or refunded, in accordance with the applicable provisions of law.

§ 301.7122 Statutory provisions; compromises.

SEC. 7122. *Compromises*—(a) *Authorization.* The Secretary or his delegate may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense; and the Attorney General or his delegate may compromise any such case after reference to the Department of Justice for prosecution or defense.

(b) *Record.* Whenever a compromise is made by the Secretary or his delegate in any case, there shall be placed on file in the office of the Secretary or his delegate the opinion of the General Counsel for the Department of the Treasury or his delegate, with his reasons therefor, with a statement of:

(1) The amount of tax assessed,

(2) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

Notwithstanding the foregoing provisions of this subsection, no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty) is less than $500.

§ 301.7122–1 Compromises.

(a) *In general.* Except with respect to certain criminal liabilities arising under the internal revenue laws relating to narcotics, smoking opium, and marihuana, the Commissioner may compromise any civil or criminal liability arising under the internal revenue laws prior to reference of a case involving such liability to the Department of Justice for prosecution or defense. Any such liability may be compromised only upon one or both of the following two grounds:

(1) Doubt as to liability; or

(2) Doubt as to collectibility.

No such liability will be compromised if the liability has been established by a valid judgment or is certain, and there is no doubt as to the ability of the Government to collect the amounts owing with respect to such liability.

(b) *Scope of compromise agreement.* A compromise agreement may relate to a civil or criminal liability for taxes, interest, ad valorem penalties, or specific penalties. However, a criminal liability may be compromised only if it involves a violation of a regulatory provision of the Internal Revenue Code, or a related statute, and then only if such violation was not deliberately committed with an intent to defraud.

(c) *Effect of compromise agreement.* A compromise agreement relates to the entire liability of the taxpayer (including taxes, ad valorem penalties, and interest) with respect to which the offer in compromise is submitted and all questions of such liability are conclusively settled thereby. Specific penalties, however, shall be compromised separately and not in connection with taxes, interest, or ad valorem penalties. Neither the taxpayer nor the Government shall, upon acceptance of an offer in compromise, be permitted to reopen the case except by reason of (1) falsification or concealment of assets by the taxpayer, or (2) mutual mistake of a material fact sufficient to cause a contract to be reformed or set aside. However, acceptance of an offer in compromise of a civil liability does not remit a criminal liability, nor does acceptance of an offer in compromise of a criminal liability remit a civil liability.

(d) *Procedure with respect to offers in compromise*—(1) *Submission of offers.* Offers in compromise shall be submitted on forms prescribed by the Internal Revenue Service which may be obtained from district directors of internal revenue, and should generally be accompanied by a remittance representing the amount of the compromise offer or a deposit if the offer provides for future installment payments. If the final payment on an accepted offer is contingent upon the immediate or simultaneous release of a tax lien in whole or in part, such payment must be in cash, or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or any State, Territory, or possession of the United States, or by a United States postal, bank, express, or telegraph money order.

(2) *Stay of collection.* The submission of an offer in compromise shall not automatically operate to stay the collection of any tax liability. However, enforcement of collection may be deferred if the interests of the United States shall not be jeopardized thereby.

(3) *Acceptance.* An offer in compromise shall be considered accepted only when the proponent thereof is so notified in writing. As a condition to accepting an offer in compromise, the taxpayer may be required to enter into any collateral agreement or to post any security which is deemed necessary for the protection of the interests of the United States.

(4) *Withdrawal or rejection.* An offer in compromise may be withdrawn by the proponent at any time prior to its acceptance. In the event an offer is rejected, the proponent shall be promptly notified in writing. Frivolous offers or offers submitted for the purpose of delaying the collection of tax liabilities shall be immediately rejected. If an offer in compromise is withdrawn or rejected, the amount tendered with the offer, including all installments paid, shall be refunded without interest, unless the taxpayer has stated or agreed that the amount tendered may be applied to the liability with respect to which the offer was submitted.

(e) *Record.* Except as otherwise provided in this paragraph, if an offer in compromise is accepted, there shall be placed on file the opinion of the Chief Counsel of the Internal Revenue Service with respect to such compromise, with his reasons therefor, and including a statement of—

(1) The amount of tax assessed,

(2) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

However, no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty) is less than $500.

(f) *Requirement with respect to statute of limitations.* No offer in compromise shall be accepted unless the taxpayer waives the running of the statutory period of limitations on both or either assessment or collection of the tax liability involved for the period during which the offer is pending, or the period during which any installment remains unpaid, and for one year thereafter.

(g) *Inspection with respect to accepted offers in compromise.* For provisions relating to the inspection of returns and accepted offers in compromise, see section 6103(a) and the regulations thereunder contained in this part.

§ 301.7123 Statutory provisions; cross references.

SEC. 7123. *Cross references*—(a) *Criminal penalties.* For criminal penalties for concealment of property, false statement, or falsifying and destroying records, in connection with any closing agreement, compromise, or offer of compromise, see section 7206.

(b) *Compromises after judgment.* For compromises after judgment, see R.S. 3469 (31 U.S.C. 194).

[F.R. Doc. 60-1127; Filed, Feb. 3, 1960; 8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

Miscellaneous Amendments

1. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.1 governing the operation of drawbridges during a major disaster or civil defense emergency is hereby amended to reflect the present conditions of warning, as follows:

§ 203.1 General.

Drawbridges across navigable waters of the United States will not be opened to navigation for certain periods determined to be in the interest of public safety by the proper civil defense authorities during a major disaster or civil defense emergency indicated by a civil defense condition of "Air Raid Warning" (attack by enemy aircraft probable, imminent, or taking place) notwithstanding any general or special regulations heretofore or hereafter prescribed for the operation of any such drawbridge or drawbridges.

[Regs., January 20, 1960, 285/91-ENGWO] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

2. Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.655 governing the operation of bridges across Milwaukee, Menomonee and Kinnickinnic Rivers and South Menomonee Canal, Wisconsin, is hereby amended with respect to paragraph (c) to require advance notice for opening certain bridges, as follows:

§ 203.655 Milwaukee, Menomonee, and Kinnickinnic Rivers, and South Menomonee Canal, Milwaukee, Wis.; bridges.

* * * * *

(c) *Regulations for all bridges owned and operated by the Chicago and North Western Railway Co., and the Chicago, Milwaukee, St. Paul and Pacific Railroad Co., across the Milwaukee, Menomonee, and Kinnickinnic Rivers within the limits of the City of Milwaukee.* (1) The draws of the above-named bridges shall be immediately opened for the passage of foreign vessels and "vessels of the United States" as defined by section 4311 of the Revised Statutes (46 U.S.C. 251), at all times during the day or night, upon signals to be given by blasts of a horn, steam whistle, or other approved signaling device, as follows, viz: For the Chicago, Milwaukee, St. Paul and Pacific Railroad bridge across the Menomonee River at North Plankinton Avenue, and the Chicago and North Western Railway bridge across the Kinnickinnic River between Kinnickinnic Avenue and South First Street, four short blasts; for all other of above-described bridges, three short blasts, except when a passenger or mail train is actually ready to pass over the bridge, but in no case shall the opening of any of the above-described bridges for the vessels above-described be delayed more than 7 minutes after the signal is given and except as provided in subparagraph (4) of this paragraph.

(2) The owners shall, when the above-described signals are given, be opened as soon as practicable for all other vessels which cannot pass the closed bridges: *Provided, however,* That no vessel of this class shall be delayed for a longer period than 15 minutes except as provided in subparagraph (4) of this paragraph.

(3) In case the draws cannot be immediately opened when the signals are given, a red flag or ball by day or a red light at night shall be conspicuously displayed.

(4) Advance notice as specified in subparagraph (5) of this paragraph will be required for opening the following bridges:

(i) Kinnickinnic River; Chicago and North Western Railway Co. bridge, Mile 1.52.

(ii) Kinnickinnic River; Chicago, Milwaukee, St. Paul and Pacific Railroad Co. bridge, Mile 1.49.

(iii) Burnham Canal; Chicago, Milwaukee, St. Paul and Pacific Railroad Co. bridge, Mile 0.76.

(5) Whenever a vessel, except the City of Milwaukee fireboat, unable to pass under the bridges listed in subparagraph (4) of this paragraph, desires passage, 2 hours' advance notice of the time opening is required shall be given to the Chicago and North Western Train Dispatcher, Milwaukee, Wisconsin, Telephone Broadway 6-6540, Extension 35, or to the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. phone director, Telephone Broadway 1-6120, Extension 359, Milwaukee, Wisconsin. The draws shall, when the signals described in subparagraph (1) of this paragraph are given, be opened as soon as practicable for the City of Milwaukee fireboat.

(6) The owners of the bridges listed in subparagraph (4) of this paragraph shall keep conspicuously posted on both the upstream and downstream sides thereof, in such a manner that it can be easily read at any time, a copy of the regulations of this section pertaining to the respective bridges together with information as to whom notice is to be given when opening is required.

[Regs., January 20, 1960, 285/91 (Milwaukee Harbor, Wis.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

R. V. LEE,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 60-1099; Filed, Feb. 3, 1960; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—VETERANS' CLAIMS

Instructions Relating to Accumulation and Final Disposition of Certain Benefits in the Case of Incompetent Veterans

Part 3, chapter I of Title 38 of the Code of Federal Regulations is amended by adding a new § 3.1541 as follows:

§ 3.1541 Instructions relating to accumulation and final disposition of certain benefits in the case of incompetent veterans.

(a) *Effects of Public Law 86-146*—(1) *Section 3202(d).* All gratuitous benefits deposited by the Veterans Administration either prior or subsequent to December 1, 1959, into a Personal Funds of Patients account of a veteran rated or adjudged mentally incompetent or insane will be paid upon his death in the following order of preference to persons living at time of settlement. Funds not deposited by the Veterans Administration but deposited by the veteran or others to the veteran's account will be excluded from application of this law.

(i) Surviving spouse;

(ii) Children (without regard to age or marital status) in equal parts; and

(iii) Dependent parents in equal parts.

In the absence of any person in subdivisions (i), (ii), and (iii) of this subparagraph, there may be paid (other than to a political subdivision of the United States) from any balance remaining so much as may be necessary for last sickness or burial expenses. Any remainder will be credited to the current appropriation.

(2) *Section 3203(a)(2)(B).* Any claim filed pursuant to subparagraph (1) of this paragraph must be filed within 5 years after the veteran's death. If the

person entitled is under legal disability at the time of the veteran's death, the 5-year period will run from date of removal of legal disability. Failure of a preferred dependent to file timely claim will not operate to establish entitlement of a dependent in a lower class or a claimant for reimbursement. Failure of a member of a joint class to file timely claim will not serve to increase the amount otherwise payable to the other members of that class. A waiver of rights by a person having title to all or a share of funds representing gratuitous benefits on deposit in the Personal Funds of Patients account will not serve to vest title in a person having equal or successor rights.

(3) *Section 3203(b).* (i) Prohibits payment of accrued lump sum where there is no wife, child or dependent parent as now prohibited by § 4.163 of this chapter.

(ii) Extends to hospital treatment, institutional or domiciliary care by political subdivisions of the United States the provisions of § 3.255(b) regarding discontinuance of payments of compensation, pension or emergency officers' retirement pay where veteran's estate equals or exceeds $1,500. Also requires discontinuance where there is only a dependent parent (or parents). Thus, payments will be continued only if there is a wife or child.

(iii) When payments are discontinued under the preceding subdivision and the veteran has a dependent parent (or parents), the amount payable but for the discontinuance may be apportioned to the parent (or parents) based on need. The amount not so apportioned may be paid for the veteran's maintenance.

(iv) Continues authority for institutional awards contained in § 3.276.

(b) *Definitions.* (1) The term "any political subdivision of the United States" includes the District of Columbia, the various States of the United States, its territories, insular possessions or the Commonwealth of Puerto Rico and the counties, cities or municipalities located therein.

(2) The term "without charge or otherwise" means with or without charge.

(c) *Value of estate.* For purposes of the application of the provisions of Public Law 86-146, the value of veterans' estates will be established in accordance with the following principles:

(1) Except as stated in subparagraph (2) of this paragraph, all funds, including accumulated social security and amounts on deposit in Funds Due Incompetent Beneficiaries and to the veteran's credit in Personal Funds of Patients at Veterans Administration regional offices, hospitals and State institutions, as well as other property, both personal and real (which is capable of being liquidated), and interests therein owned by the veteran, will be included in arriving at the value of the veteran's estate.

(i) *Real and personal property.* The value of such property, including interests therein, will be established at the estimated net price the veteran's equity in the property will bring at forced sale after payment of all costs incident to the liquidation.

(ii) *United States Savings Bonds, War Bonds, Adjusted Service Bonds, and other Appreciation Bonds.* The current value including accrued interest will be used.

(iii) *Bonds and stocks.* The current price listed on a recognized stock exchange will be the value to be used.

(iv) *Cash in the estate.* This will be included for valuation purposes notwithstanding it was derived from any of the excluded items in subparagraph (2) of this paragraph.

(2) Items listed in § 13.326(a)(4) of this chapter will not be included as assets.

(d) *Criteria for parents' needs.* Section 3.57(a) is applicable in determining the need of a dependent parent (or parents).

(e) *Effective dates*—(1) *Section 3202(d).* The limitations imposed on payment of funds from gratuitous benefits under laws administered by the Veterans Administration on deposit in Personal Funds of Patients accounts are effective as to deaths after November 30, 1959. The limitations apply to all funds described in paragraph (a)(1) of this section on deposit at the time of the veterans' death whether accrued before or after the effective date of the act.

(2) *Section 3203(a)(2)(B).* The limitations on time of filing claim for funds from such gratuitous benefits will be governed by the date of the veteran's death or the effective date of this act whichever is the later. Application for these amounts must be received within 5 years after the death of the veteran or from removal or termination of legal disability as specified by this subsection.

(3) *Section 3203(b)(2)*—(i) *Apportionments.* The effective date of this act is December 1, 1959. No apportionment to a parent based solely on the provisions of this law may be made effective prior to that date.

(a) *Running awards.* In any case in which payments to a veteran have been continued while he is hospitalized solely because the dependency of a parent (or parents) has been established, no claim for apportionment under this act will be required from such parent (or parents). Apportioned awards to such parent (or parents) will be effective December 1, 1959, subject to establising current dependency and need status and recommendation by the Chief Attorney of the amount to be paid each parent from that date.

(b) *Pending claims.* The effective date of an award as to a claim for apportionment pending on date of enactment will be December 1, 1959 if evidence otherwise establishes entitlement on that date. Pending claims will include:

(1) A claim not previously adjudicated.

(2) A previously disallowed claim pending consideration on appeal.

(3) A previously disallowed claim reopened by the receipt of any claim, evidence, or inquiry on which action was pending on date of enactment.

(4) A previously disallowed claim reopened by the receipt of any claim, evidence, or inquiry after date of enactment but within the appeal period.

(c) *New claims.* All other claims for apportionment, formal or informal, received on or after the date of enactment will be considered initial claims for the purpose of this law and the effective date will be determined under applicable laws and regulations relating to original claims but not earlier than December 1, 1959.

(d) *Additional compensation for dependents.* Awards of additional compensation for dependents under 38 U.S.C. 315 and 335 will be effective as provided in 38 U.S.C. 3011 and § 3.214.

(ii) *Other awards.* (a) Limitation applying to payment of pension, compensation or emergency officers' retirement pay for incompetent veterans having neither wife nor child who are being furnished hospital treatment, institutional or domiciliary care by the United States or any political subdivision thereof apply from December 1, 1959. Date of stop payment on those cases falling within the limitation on that date will be November 30, 1959 even though evidence necessary for authorization action is received in the Adjudication Division at a subsequent date if the facts were known to any element of the Veterans Administration.

(b) Original, reopened and amended awards on and after December 1, 1959, will be subject to the restrictive provisions of this act even though benefits would be payable from an earlier date but for these amendments. No award executed after receipt of this section will provide benefits beyond November 30, 1959, if the limitations of this act apply or the evidence is insufficient to determine that the limitations do not apply. When awards in such cases are in order the award will carry a termination date of November 30, 1959, and immediate development will be initiated, including notice to parents of right to file claim if in order.

(f) *Accrued amounts; funds from other than gratuitous benefits.* Funds in Personal Funds of Patients accounts which were derived from sources other than gratuitous benefits described in paragraph (a)(1) of this section will be disposed of in accordance with instructions in effect prior to enactment of this law. (Instruction 1, 38 U.S.C. Ch. 55, Public Law 86-146)

(72 Stat. 1114; 38 U.S.C. 210)

This regulation is effective February 4, 1960.

[SEAL] BRADFORD MORSE,
Deputy Administrator.

[F.R. Doc. 60-1156; Filed, Feb. 3, 1960; 9:53 a.m.]

Title 45—PUBLIC WELFARE

Chapter III—Bureau of Federal Credit Unions, Social Security Administration, Department of Health, Education, and Welfare

PART 301—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Payment or Amortization of Loans

Notice of proposed rule making, public procedures thereon, and delay in effective date in the issuance of the following amendment have been omitted because of the following findings and reasons:

Section 301.21(e) was published in 24 F.R. 8413, dated October 16, 1959, and made effective on that date. In the period following such publication evidence has been submitted to the Director which indicates that the requirement of interest payments not less frequently than at three months intervals often presents a serious obstacle to rendition of Federal credit union services to members in such cases as where the repayment of loans, both principal and interest, is necessarily coordinated with the marketing of agricultural products. To require payment of interest prior to marketing the crops may be a hardship which requires either the use of operating funds or the borrowing of additional funds.

Accordingly, since Federal credit unions are currently engaged in attempting to meet the needs of their members, and since it is believed that enlarging the interval for the required payment of interest will not affect loan policies and practices of Federal credit unions in general, the Director finds that an immediately effective amendment to said § 301.21(e) is essential. For these reasons and because this amendment will alleviate the specific hardship and provide necessary flexibility of operation, advance notice and procedure thereon is impracticable, unnecessary and contrary to the public interest.

Section 301.21(e) is amended to read as follows:

§ 301.21 Payment or amortization of loans.

* * * * *

(e) All loans shall provide for the payment of interest with each payment of principal: *Provided however,* That no loan shall provide for the payment of interest less frequently than at intervals of twelve months.

Sec. 301.21(e) issued under sec. 8(5), 73 Stat. 628, et seq.

Effective date: This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

Dated: January 19, 1960.

J. DEANE GANNON,
Director, Bureau of Federal Credit Unions.

Approved: January 25, 1960.

[SEAL]
W. L. MITCHELL,
Commissioner of Social Security.

Approved: January 29, 1960.

BERTHA ADKINS,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 60-1108; Filed, Feb. 3, 1960; 8:46 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Distributions or Payments Under Certain Employee Plans

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

In order to clarify the tax treatment of distributions or payments under certain employee plans, the Income Tax Regulations (26 CFR Part 1) are amended as follows. Such amendments are effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954.

PARAGRAPH 1. Paragraph (a) of § 1.72-2 is amended:

(A) By striking the fourth, fifth, and sixth sentences of subparagraph (1) thereof, and

(B) By adding the following new subparagraph at the end thereof:

§ 1.72-2 Applicability of section.

(a) *Contracts.* * * *

(3) (i) Sections 402 and 403 provide that certain distributions by employees' trusts and certain payments under employee plans are taxable under section 72, except that section 72(e)(3) does not apply to such distributions or payments. For purposes of applying section 72 to such distributions and payments, each separate program of the employer consisting of interrelated contributions and benefits shall be considered a single contract. Therefore, all distributions or payments which are attributable to a separate program of interrelated contributions and benefits are considered as received under a single contract. Since a contract with an insurance company is a separate program of interrelated contributions and benefits, the distributions or payments which are attributable to such a contract shall be considered as received under a single contract. A program may be considered separate for purposes of section 72 although it is only a part of a plan which qualifies under section 401. There may be several trusts under one separate program, or several separate programs may make use of a single trust.

(ii) The application of this subparagraph may be illustrated by the following examples:

Example (1). X Corporation established a noncontributory profit-sharing plan for its employees providing that the amount standing to the account of each participant will be paid to him at the time of his retirement and also established a contributory pension plan for its employees providing for the payment to each participant of a lifetime pension after retirement. The profit-sharing plan is designed to enable the employees to participate in the profits of X Corporation; the amount of the contributions to it are determined by reference to the profits of X Corporation; and the amount of any distribution is determined by reference to the amount of contributions made on behalf of any participant and the earnings thereon. On the other hand, the pension plan is designed to provide a lifetime pension for a retired employee; the amount of the pension is to be determined by a formula set forth in the plan; and the amount of contributions to the plan is the amount necessary to provide such pensions. In view of the fact that each of these plans constitutes a separate program of interrelated contributions and benefits, the distributions from each shall be treated as received under a separate contract.

Example (2). Z Corporation established a profit-sharing plan for its employees providing that any employee may make contributions, not in excess of 6 percent of his compensation, to a trust and that the employer would make matching contributions out of profits. On separation from service, any participant is entitled to receive a distribution of the amount standing in his account in accordance with one of several options. One option provides for the immediate distribution of one-half of the account and for the periodic distribution of the balance of the account. In addition, any participant may, after the completion of five years of participation, withdraw any

part of his account, but in the case of such a withdrawal, the participant forfeits his rights to participate in the plan for a period of two years. Thus, a participant may receive distributions before separation from service; he may upon separation from service receive a distribution of a lump sum; he may also upon separation from service receive periodic distributions. However, since it is the total amount received under all the options that is interrelated with the contributions to the plan and not the amount received under any one option, this profit-sharing plan consists of only one separate program of interrelated contributions and benefits and all distributions under the plan (regardless of the option under which received) are treated as received under one contract.

Example (3). N Corporation established a profit-sharing plan for its employees providing that the employees may make contributions, not in excess of 6 percent of their compensation, to a trust and that N Corporation would make matching contributions out of its profits. Under the plan, the employee may elect each year to have his and the employer's contributions for such year placed in either a savings arrangement or a retirement arrangement. Such an election is irrevocable. Under the savings arrangement, contributions to such arrangement for any one year and the earnings thereon will be distributed five years later. The retirement arrangement provides that all contributions thereto and the earnings thereon will be distributed when the employee is separated from the service of N Corporation. Since the distributions under the retirement arrangement are attributable solely to the contributions made to such arrangement and are not affected in any manner by contributions or distributions under the savings arrangement or any other plan, such distributions are treated as received under a separate program of interrelated contributions and benefits. Similarly, since distributions during any year under the savings arrangement are attributable only to contributions to such arrangement made during the fifth preceding year and are not affected in any manner by any other contributions to or distributions from such arrangement or any other plan, the savings arrangement constitutes a series of separate programs of interrelated contributions and benefits. The contributions to the savings arrangement for any year and the distribution in a subsequent year based thereon constitute a separate contract for purposes of section 72.

Example (4). The Civil Service Retirement Act, which provides retirement benefits for participating employees, consists of a compulsory program and a voluntary program. Under the compulsory program, all participating employees are required to make certain contributions and, upon retirement, are provided retirement benefits computed on the basis of compensation and length of service. Under the voluntary program, such participating employees are permitted to make contributions in addition to those required under the compulsory program and, upon retirement, are provided additional retirement benefits computed on the basis of their voluntary contributions. Distributions received under the Act constitute distributions from two separate contracts for purposes of section 72. Distributions received under the compulsory program are considered as received under a separate program of interrelated contributions and benefits since they are computed solely under the compulsory program and are not affected by any contributions or distributions under the voluntary program or under any other plan. For similar reasons, distributions which are attributable to the voluntary contributions are considered as received under a separate program of interrelated contributions and benefits.

Example (5). Y Corporation established a noncontributory pension plan (including incidental death benefits) for its employees and created a trust to which it makes contributions to fund such plan. The plan provides that each participant will receive after age 65 a pension of 1½ percent of his compensation for each year of service performed subsequent to the establishment of such plan. In addition, such plan provides for the payment of a death benefit if the employee dies before age 65. In order to finance the death benefits and part of the retirement benefits, it is provided that the plan should be partly funded through the purchase by the trustee of individual retirement income contracts from an insurance company. This pension plan includes, with respect to each participant, two separate contracts for purposes of section 72. The retirement income contract purchased by the trust for each participant is a separate program of interrelated contributions and benefits and all distributions attributable to such contract (whether made directly from the insurance company to the employee or made through the trustee) are considered as received under a single contract. For rules relating to the tax treatment of contributions and distributions under retirement income, endowment, or other life insurance contracts purchased by a trust described in section 401(a) and exempt under section 501(a), see paragraph (a) (2), (3), and (4) of § 1.402(a)-1. The remaining distributions under the plan are considered as received under another separate program of interrelated contributions and benefits.

PAR. 2. Paragraph (a)(3) of § 1.72-13 is amended to read as follows:

§ 1.72-13 Special rule for employee contributions recoverable in three years.

(a) *Amounts received as an annuity.* * * *

(3) The aggregate of the amounts receivable as an annuity within the prescribed 3-year period shall be the total of all annuity payments anticipatable by an employee (or a beneficiary or beneficiaries of an employee, if the employee died before any amount was received as an annuity) under the contract as a whole as defined in paragraph (a) of § 1.72-2. In accordance with paragraph (a)(3) of § 1.72-2, the applicability of section 72(d) shall, in the case of distributions from an employees' trust or plan, be determined separately with respect to each separate program of interrelated contributions and benefits.

[F.R. Doc. 60-1126; Filed, Feb. 3, 1960; 8:48 a.m.]

[26 CFR (1954) Part 46]

TAXES ON SUGAR, COCONUT OIL, AND PALM OIL; TAXES ON CIRCULATION OTHER THAN OF NATIONAL BANKS

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

The following regulations are hereby prescribed under chapter 37 (excise taxes on sugar and coconut and palm oil) and subchapter E (regulatory tax on circulation other than of national banks) of chapter 39 of the Internal Revenue Code of 1954.

Subpart A—Introduction

Sec.
46.0-1 Introduction.
46.0-2 General definitions and use of terms.
46.0-3 Scope of regulations.
46.0-4 Extent to which regulations in this part supersede prior regulations.

Subpart B—Tax on Manufactured Sugar

46.4501 Statutory provisions; imposition of tax.
46.4501-1 Imposition of tax manufactured sugar.
46.4501-2 Cross reference.
46.4502 Statutory provisions; definitions.
46.4503 Statutory provisions; exemptions for sugar manufactured for home comsumption.
46.4503-1 Exemption for sugar manufactured for home consumption.
46.4504 Statutory provisions; import tax imposed as tariff duty.
46.4504-1 Administration of import tax.

Subpart C—Processing Tax on Coconut and Palm Oil

46.4511 Statutory provisions; imposition of tax.
46.4511-1 Imposition of tax on coconut and palm oil.
46.4512 Statutory provisions; definition of first domestic processing.
46.4512-1 Definition of first domestic processing.
46.4513 Statutory provisions; exemptions.
46.4513-1 Exemptions for acids and salts previously taxed.
46.4513-2 Exemption from additional tax on coconut oil.
46.4513-3 Exemptions; processed for exportation.
46.4514 Statutory provisions; cross reference to general administrative provisions.

Subpart D—Tax on Circulation Other Than of National Banks

46.4881 Statutory provisions; imposition of tax.
46.4881-1 Imposition of tax on average circulation outstanding.
46.4881-2 Tax on circulation paid out.

Subpart A—Introduction

§ 46.0–1 Introduction.

(a) *In general.* The regulations in this part (Part 46, Subchapter D, Chapter I, Title 26 (1954), Code of Federal Regulations) relate to (1) taxes on the manufacture of manufactured sugar and the first domestic processing of coconut and palm oil imposed by chapter 37 of the Internal Revenue Code of 1954, (2) the tax on circulation other than of national banks imposed by subchapter E of chapter 39 of the Internal Revenue Code of 1954, and (3) certain related administrative provisions of subtitle F of the Internal Revenue Code of 1954. References in these regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, unless otherwise indicated. References to a section or other provision of law are references to a section or other provision of the Internal Revenue Code, as amended, unless otherwise indicated.

(b) *Division of regulations.* The regulations in this part are divided into five subparts. Subpart A contains provisions relating to the arrangement and numbering of the sections of the regulations in this part, general definitions and use of terms, scope of the regulations, and the extent to which the regulations in this part supersede prior regulations. Subpart B relates to the excise tax on manufactured sugar. Subpart C relates to the excise tax on coconut and palm oil. Subpart D relates to the regulatory taxes on circulation other than of national banks. Subpart E relates to selected provisions of subtitle F (Procedure and Administration) of the Code which have special application to the taxes imposed by chapter 37 and subchapter E of chapter 39 of the Code.

(c) *Arrangement and numbering.* Each section of the regulations in subparts B through E is preceded by the section, subsection, or paragraph of the Internal Revenue Code which it interprets. The sections of the regulations can readily be distinguished from sections of the Code since—

(1) The sections of the regulations are printed in larger type;

(2) The sections of the regulations are preceded by a section symbol and the part number, arabic numeral 46 followed by a decimal point (§ 46.); and

(3) The sections of the Code are preceded by "Sec.". Each section of the regulations setting forth law or regulations is designated by a number composed of the part number followed by a decimal point (46.) and the number of the corresponding provision of the Internal Revenue Code. In the case of a section setting forth regulations, this designation is followed by a hyphen (-) and a number identifying such section.

§ 46.0–2 General definitions and use of terms.

As used in the regulations in this part, unless otherwise expressly indicated—

(a) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(b) The Internal Revenue Code of 1954 means the Act approved August 16, 1954 (68A Stat.), entitled "An Act to revise the internal revenue laws of the United States", as amended.

(c) District director means the district director of internal revenue. The term also includes the Director of International Operations in all cases where the authority to perform the functions which may be performed by a district director has been delegated to the Director of International Operations.

(d) Calendar quarter means a period of 3 calendar months ending on March 31, June 30, September 30, or December 31.

§ 46.0–3 Scope of regulations.

The regulations in this part relate to the taxes imposed on the manufacture of manufactured sugar, the first domestic processing of coconut and palm oil, and circulation other than of national banks and, except where otherwise specifically provided, have application to transactions occurring after December 31, 1954.

§ 46.0–4 Extent to which the regulations in this part supersede prior regulations.

The regulations in this part, with respect to the subject matter within the scope thereof, supersede the following regulations and such regulations as prescribed and made applicable to the Internal Revenue Code of 1954 by Treasury Decision 6091, signed August 16, 1954 (19 F.R. 5167, August 17, 1954):

Tax on the manufacture of manufactured sugar.	Regulations 99 (1937 Edition, as amended), 26 CFR (1939) Part 312.
Processing tax on certain oils.	Regulations 48 (1934 Edition, as amended), 26 CFR (1939) Part 306.
Taxes on circulation of banks and bankers and on notes paid out.	Regulations 1 (1917 Edition, as amended), 26 CFR (1939) Part 160, and the Treasury Decisions referred to therein.

The regulations in this part, with respect to the subject matter within the scope thereof, also supersede the Regulations on Monthly Returns and Payment of Excise Taxes (26 CFR Part 149).

Subpart B—Tax on Manufactured Sugar

§ 46.4501 Statutory provisions; imposition of tax.

SEC. 4501. *Imposition of tax*—(a) *General.* There is hereby imposed upon manufactured sugar manufactured in the United States, a tax, to be paid by the manufacturer at the following rates:

(1) On all manufactured sugar testing by the polariscope 92 sugar degrees, 0.465 cent per pound, and, for each additional sugar degree shown by the polariscopic test, 0.00875 cent per pound additional, and fractions of a degree in proportion;

(2) On all manufactured sugar testing by the polariscope less than 92 sugar degrees, 0.5144 cent per pound of the total sugars therein.

The manufacturer shall pay the tax with respect to manufactured sugar (1) which has been sold, or used in the production of other articles, by the manufacturer during the preceding month (if the tax has not already been paid) and (2) which has not been so sold or used within 12 months ending during the preceding calendar month, after it was manufactured (if the tax has not already been paid). For the purpose of determining whether sugar has been sold or used within 12 months after it was manufactured, sugar shall be considered to have been sold or used in the order in which it was manufactured.

(b) *Import tax.* In addition to any other tax or duty imposed by law, there is hereby imposed, under such regulations as the Secretary or his delegate shall prescribe, a tax upon articles imported or brought into the United States as follows:

(1) On all manufactured sugar testing by the polariscope 92 sugar degrees, 0.465 cent per pound, and, for each additional sugar degree shown by the polariscopic test, 0.00875 cent per pound additional, and fractions of a degree in proportion;

(2) On all manufactured sugar testing by the polariscope less than 92 sugar degrees, 0.5144 cent per pound of the total sugars therein;

(3) On all articles composed in chief value of manufactured sugar, 0.5144 cent per pound of the total sugars therein.

(c) *Termination of tax.* No tax shall be imposed under this subchapter on the manufacture, use, or importation of sugar or articles composed in chief value of sugar after June 30, 1961. Notwithstanding the provisions of subsection (a) or (b), no tax shall be imposed under this subchapter with respect to unsold sugar held by a manufacturer on June 30, 1961, or with respect to sugar or articles composed in chief value of sugar held in customs custody or control on such date.

[Sec. 4501 as amended by sec. 19, Act of May 28, 1956 (Pub. Law 545, 84th Cong., 70 Stat. 221); sec. 162(b), Excise Tax Technical Changes Act of 1958 (72 Stat. 1306)]

§ 46.4501–1 Imposition of tax on manufactured sugar.

(a) *Tax imposed.* Section 4501(a) imposes a tax upon manufactured sugar manufactured in the United States.

(b) *Rates of tax.* The rates of tax imposed upon the manufacture of manufactured sugar are:

(1) On all manufactured sugar testing by the polariscope 92 sugar degrees, 0.465 cent per pound, and, for each additional sugar degree shown by the polariscopic test, 0.00875 cent per pound additional, and fractions of a degree in proportion;

(2) On all manufactured sugar testing by the polariscope less than 92 sugar degrees, 0.5144 cent per pound of the total sugars therein.

(c) *Liability for tax.* The tax imposed by section 4501(a) is payable by the manufacturer.

(d) *Measure of tax.* The measure of the tax is the number of pounds of manufactured sugar produced by the manufacturer. In the case of a person considered under section 4502(1) to be a manufacturer, the measure of the tax is the number of pounds of manufactured sugar sold, or used in the production of other articles for sale, by such person.

(e) *When tax attaches.* (1) The tax imposed by section 4501(a) attaches upon the completion of that process of manufacturing the direct result of which is manufactured sugar.

(2) If a person acquires sugar to be manufactured into manufactured sugar, and, without further refining or improving it in quality, sells such sugar as manufactured sugar, or uses it as manufactured sugar in the production of other articles for sale, such person is liable, as a manufacturer, for the tax in respect of such sugar. See section 4502(1). The tax attaches at the time of the sale of such sugar or at the time of its use in the production of other articles for sale.

(f) *Computation of tax.* The amount of tax payable by a manufacturer in respect of a particular calendar month is the sum of the amounts obtained by multiplying—

(1) The number of pounds of manufactured sugar sold by the manufacturer, or used by him in the production of other articles for sale, in such calendar month by the applicable rate or rates of tax, and

(2) The number of pounds of manufactured sugar which has not been sold, or used in the production of other articles for sale, within 12 months from the month in which the sugar was manufactured by the applicable rate or rates of tax.

No liability is incurred with respect to manufactured sugar on which tax has already been paid. See subpart F for provisions relating to the reporting and payment of the tax.

(g) *Date of sale.* Manufactured sugar will be considered to have been sold during the month in which title thereto passes from the manufacturer to a purchaser. When title passes is dependent upon the intention of the parties, which is gathered from the contract of sale and the attendant circumstances. In the absence of expressed intention or other direct evidence, the legal rules of presumption followed in the jurisdiction where the sale is made govern in determining when title passes. Generally, for the purposes of payment of the tax, manufactured sugar will be considered to have been sold during the month in which it was delivered to the purchaser or to a carrier for delivery to the purchaser.

(h) *Twelve-month rule.* (1) If the manufactured sugar has not been sold, or used in the production of other articles for sale, within 12 months after the month in which manufactured, the tax with respect to such sugar must be reported on the return for the return period which includes the month in which such twelve-month period expires. For the purpose of determining whether manufactured sugar has been sold, or used in the production of other articles for sale, within 12 months after manufacture, the sugar shall be considered to have been sold or used in the order in which it was manufactured.

(2) The following examples illustrate the 12-month rule:

Example (1). On September 30, 1956, the manufacturer still had on hand, unsold, a quantity of manufactured sugar, manufactured by him in the month of September 1955. The tax with respect to such manufactured sugar is reportable on the return for the period which includes the month of September 1956.

Example (2). A quantity of manufactured sugar, manufactured in September 1955, was destroyed by fire in December 1955, prior to a sale by the manufacturer. The tax with respect to such sugar is reportable on the return for the period which includes the month of September 1956.

§ 46.4501–2 Cross reference.

For provisions relating to the tax imposed by section 4501(b), see § 46.4504–1.

§ 46.4502 Statutory provisions; definitions.

SEC. 4502. *Definitions.* For the purposes of this subchapter—

(1) *Manufacturer.* Any person who acquires any sugar which is to be manufactured into manufactured sugar but who, without further refining or otherwise improving it in quality, sells such sugar as manufactured sugar or uses such sugar as manufactured sugar in the production of other articles for sale shall be considered, for the purposes of section 4501(a), the manufacturer of manufactured sugar and, as such, liable for the tax under section 4501(a) with respect thereto.

(2) *Person.* The term "person" means an individual, partnership, corporation, or association.

(3) *Manufactured sugar.* The term "manufactured sugar" means any sugar derived from sugar beets or sugarcane, which is not to be, and which shall not be, further refined or otherwise improved in quality; except sugar in liquid form which contains nonsugar solids (excluding any foreign substance that may have been added or developed in the product) equal to more than 6 per centum of the total soluble solids and except also sirup of cane juice produced from sugarcane grown in continental United States. The grades or types of sugar within the meaning of this definition shall include, but shall not be limited to, granulated sugar, lump sugar, cube sugar, powdered sugar, sugar in the form of blocks, cones, or molded shapes, confectioners' sugar, washed sugar, centrifugal sugar, clarified sugar, turbinado sugar, plantation white sugar, muscovado sugar, refiners' soft sugar, invert sugar mush, raw sugar, sirups, molasses, and sugar mixtures.

(4) *Total sugars.* The term "total sugars" means the total amount of the sucrose and of the reducing or invert sugars.

(5) *United States.* The term "United States" shall be deemed to include the States, the Territory of Hawaii, the District of Columbia, and Puerto Rico.

[Sec. 4502 as amended by sec. 20, Act of May 29, 1956 (Pub. Law 545, 84th Cong., 70 Stat. 221); sec. 22 (c), Alaska Omnibus Act (73 Stat. 146)]

§ 46.4503 Statutory provisions; exemptions for sugar manufactured for home consumption.

SEC. 4503. *Exemptions for sugar manufactured for home consumption.* No tax shall be required to be paid under section 4501(a) upon the manufacture of manufactured sugar by or for the producer of the sugar beets or sugarcane from which such manufactured sugar was derived, for consumption by the producer's own family, employees, or household.

§ 46.4503–1 Exemption for sugar manufactured for home consumption.

(a) *In general.* (1) No tax is required to be paid on the manufacture of manufactured sugar by, or for, the producer of the sugar beets or sugarcane from which such manufactured sugar was derived, for consumption by the producer's own family, employees, or household. The exemption provided by section 4503 is available only to individual producers; it does not apply if the producer of the sugar beets or sugarcane is a corporation. To support the exemption from tax under the provisions of section 4503 with respect to the quantity of manufactured sugar delivered by the manufacturer to the producer, the manufacturer shall obtain from each producer a certificate, in duplicate, on Form 2 (Sugar). The original certificate shall be filed with the return on which the exemption is claimed, and the duplicate copy retained as provided in § 46.6001–1. Such certificate on Form 2 (Sugar) shall be executed by the producer with respect to each lot of manufactured sugar delivered to him by the manufacturer.

(2) It is not necessary that the manufactured sugar received by the producer be manufactured from the identical sugar beets or sugarcane delivered. The manufacturer may deliver to the producer an amount of manufactured sugar not in excess of the amount which would have been manufactured from the particular quantity of sugar beets or sugarcane the producer has delivered to the manufacturer. All the manufactured sugar to be delivered to a producer for consumption by his family, employees, or household need not be delivered to him at one time, but a separate certificate on Form 2 (Sugar) must be obtained for each withdrawal.

(b) *Limitations.* (1) The deduction in the manufacturer's return in connection with this exemption is limited to manufactured sugar actually delivered to the producer during the period for which the return is made and shall not include any quantity of manufactured sugar which has not actually been delivered to the producer.

(2) The exemption under section 4503 applies only to that quantity of manufactured sugar required by the producer for consumption by his family, employees, or household. The manufacturer is required to exercise care in accepting certificates from producers to ascertain that no quantity of manufactured sugar in excess of that required for such use is delivered to the producer under this exemption.

§ 46.4504 Statutory provisions; import tax imposed as tariff duty.

SEC. 4504. *Import tax imposed as tariff duty.* The tax imposed by section 4501(b) shall be levied, assessed, collected, and paid in the same manner as a duty imposed by the Tariff Act of 1930 (46 Stat. 590; 19 U.S.C., chapter 4) and shall be treated for the purposes of all provisions of law relating to the customs revenue as a duty imposed by such act, except that for the purposes of sections 336 and 350 of such act (the so-called flexible tariff and trade agreements provisions; 46 Stat. 701; 48 Stat. 943; 19 U.S.C. 1336, 1351) such tax shall not be considered a duty or import restriction, and except that no preference with respect to such tax shall be accorded any articles imported or brought into the United States, and except that such tax may be subject to refunds as a tax under the provisions of section 6418(a).

[Sec. 4504 as amended by sec. 21(a), Act of May 29, 1956, (Pub. Law 545, 84th Cong., 70 Stat. 221)]

§ 46.4504–1 Administration of import tax.

The import tax imposed under section 4501(b) is administered by the Bureau of Customs under regulations issued by such Bureau.

Subpart C—Processing Tax on Coconut and Palm Oil

§ 46.4511 Statutory provisions; imposition of tax.

SEC. 4511. *Imposition of tax*—(a). *General.* There is hereby imposed upon the first domestic processing of coconut oil, palm oil, palm-kernel oil, fatty acids derived from any of the foregoing oils, salts of any of the foregoing (whether or not such oils, fatty acids, or salts have been refined, sulphonated, sulphated, hydrogenated, or otherwise processed), or any combination or mixture containing a substantial quantity of any one or more of such oils, fatty acids, or salts, a tax of 3 cents per pound, to be paid by the processor.

(b) *Additional rate on coconut oil.* There is hereby imposed (in addition to the tax imposed by the preceding subsection) a tax of 2 cents per pound, to be paid by the processor, upon the first domestic processing of coconut oil or of any combination or mixture containing a substantial quantity of coconut oil with respect to which oil there has been no previous first domestic processing.

(c) *Termination of additional rate.* The tax imposed by subsection (b) shall not apply to any domestic processing after July 3, 1974.

Section 3 of the Act of August 30, 1957 (Public Law 85–235, 71 Stat. 516)

The tax imposed under section 4511(a) of the Internal Revenue Code of 1954 shall not apply with respect to the first domestic processing of coconut oil, fatty acids derived therefrom, or salts thereof, or of any combination or mixture solely because such combination or mixture contains a substantial quantity of such oil, fatty acids, or salts, during the period beginning with the first day of the first month which begins more than ten days after the date of the enactment of this Act and ending with the close of June 30, 1960.

Act of May 29, 1959 (Public Law 86–37, 73 Stat. 64)

The tax imposed under section 4511 (a) of the Internal Revenue Code of 1954 shall not apply with respect to the first domestic processing of palm oil, palm-kernel oil, fatty acids derived therefrom, or salts thereof, or of any combination or mixture solely because such combination or mixture contains a substantial quantity of one or more of such oils, fatty acids, or salts, during the period beginning with the first day of the first month which begins more than 10 days after the date of the enactment of this Act and ending with the close of June 30, 1960.

§ 46.4511–1 Imposition of tax on coconut and palm oil.

(a) *Nature and rate of the tax*—(1) *In general.* Section 4511(a) imposes an excise tax at the rate of 3 cents per pound upon the "first domestic processing" (as defined in section 4512) of coconut oil, palm oil, palm-kernel oil, fatty acids derived from any of the foregoing oils, salts of any of the foregoing (whether or not such oils, fatty acids, or sales have been refined, sulphonated, sulphated, hydrogenated, or otherwise processed), or any combination or mixture containing a substantial quantity of any one or more of such oils, fatty acids, or salts. In addition to the tax imposed by section 4511(a), section 4511(b) imposes an excise tax at the rate of 2 cents per pound upon the first domestic processing of coconut oil or of any combination or mixture containing a substantial quantity of coconut oil with respect to which there has been no previous first domestic processing.

(2) *Suspension of tax*—(i) *Coconut oil.* Pursuant to the provisions of section 3 of the Act of August 30, 1957 (Public Law 85–235, 71 Stat. 516), the tax imposed by section 4511(a) with respect to the first domestic processing of coconut oil, fatty acids derived therefrom, or salts thereof, or any combination or mixture solely because such combination or mixture contains a substantial quantity of such oil, fatty acids, or salts does not apply during the period beginning October 1, 1957, and ending with the close of June 30, 1960.

(ii) *Palm oil.* Pursuant to the provisions of the Act of May 29, 1959 (Public Law 86–37, 73 Stat. 64), the tax imposed by section 4511(a) with respect to the first domestic processing of palm oil, palm-kernel oil, fatty acids derived therefrom, or salts thereof, or of any combination or mixture solely because such combination or mixture contains a substantial quantity of one or more of such oils, fatty acids, or salts does not apply during the period beginning July 1, 1959 and ending with the close of June 30, 1960.

(3) *Cross references.* For exemptions from the taxes imposed by section 4511, see section 4513 and §§ 46.4513–1 and 46.4513–2.

(b) *Liability for tax.* The taxes imposed by section 4511 are payable by the processor.

(c) *When the tax attaches.* Tax attaches at the time of the first domestic processing of the oil or oils.

(d) *Measure of the tax.* The measure of the tax is the quantity (in pounds) of "oil or oils" (defined in paragraph (e)) put into process. Accordingly, the amount of tax will be determined by the quantity of the oil or oils which, in any way, enters into the first domestic processing.

(e) *Definitions.* For purposes of the regulations in this part, unless otherwise expressly indicated:

(1) *Oil or oils.* "Oil or oils" means coconut oil, palm oil, palm-kernel oil, fatty acids derived from any of the foregoing oils, salts of any of the foregoing (whether or not such oils, fatty acids, or salts have been refined, sulphonated, sulphated, hydrogenated, or otherwise processed), or any combination or mixture, containing a substantial quantity of any one or more of such oils, fatty acids, or salts.

(2) *Combination or mixture.* "Combination or mixture" means an article

in the formation of which any of the oils have been blended, conjoined, united, admixed, combined, amalgamated, embodied, or merged, either by chemical or mechanical means, with or without the presence of any other substance, and which retains a substantial portion (10 percent or more) of substantially all the essential components of any of the oil or oils entering into such combination or mixture. It includes articles in which any of the oil or oils have been subjected to preliminary processing outside the United States and in which substantially all of the components of such oil or oils are present, even though the oils themselves may no longer exist as such.

(3) *Fatty acids.* "Fatty acids" means those organic acids found in the free or combined state in coconut oil, palm oil, or palm-kernel oil.

(4) *Salts.* "Salts" means the compounds formed by the interaction of fatty acid, free or combined, of coconut oil, palm oil, or palm-kernel oil, with a metal or metal-like substance or an organic radical.

(5) *Substantial quantity.* "Substantial quantity" means ten (10) percent or more, by weight, of the combination or mixture.

§ 46.4512 Statutory provisions; definition of first domestic processing.

SEC. 4512. *Definitions of first domestic processing.* For the purposes of this subchapter, the term "first domestic processing" means the first use in the United States, in the manufacture or production of an article intended for sale, of the article with respect to which the tax is imposed, but does not include the use of palm oil in the manufacture of iron or steel products, or tin plate or terne plate, or any subsequent use of palm oil residue resulting from the manufacture of iron or steel products, or tin plate or terne plate.

§ 46.4512–1 Definition of first domestic processing.

(a) *Processing.* "Processing" means the use of the oil or oils in the manufacture or production of an article intended for sale. The first domestic processing means the first use of the oil or oils in the United States.

(b) *Use.* "Use" has a very broad meaning. The term includes, among other things, the using or making use of, or employing, any one or more of the oils, or any combination or mixture of the oils, in any process, or stage or step in the manufacture or production of an article intended for sale, and includes the manufacture or production of such article in its entirety, whether such oil is used as a component or constituent or ingredient of the article, or is used merely as a means or aid in the manufacture or production of the article, and not as a component or constituent or ingredient. Examples of the use contemplated which are in no measure all-inclusive are:

(1) Bleaching, neutralizing, refining, deodorizing, hydrogenating, sulphonating, "twitchellizing", polymerizing, saponifying, or any other commercial processing or any combination of these commercial processings, if such processing or combination of processing produces an article intended for sale.

(2) The entire process of manufacture or production of an article intended for sale, where any one or more of the above processes are but incidental steps or stages in a continuous course of manufacture or production of the article.

(3) The manufacture or production of an article intended for sale from an oil or oils upon which any of the processes enumerated in subparagraph (1) of this paragraph have been performed prior to the importation of the particular oil.

(4) The use of the oil or oils in connection with any process or stage of the manufacture or production of an article intended for sale, even though the oil is not consumed therein or does not become a component material of the article so produced.

(c) *Exception in case of palm oil.* The term "first domestic processing" does not include the use of palm oil (1) in the manufacture of iron or steel products, (2) in the manufacture of tin plate, or (3) in the manufacture of terne plate. In addition, the term does not include any use of palm oil residue resulting from the use of such oil in the manufacture of iron or steel products, or tin plate, or terne plate.

§ 46.4513 Statutory provisions; exemptions.

SEC. 4513. *Exemptions*—(a) *Acids and salts previously taxed.* The tax under section 4511 shall not apply—

(1) With respect to any fatty acid or salt resulting from a previous first domestic processing taxed under such section or upon which an import tax has been paid under subchapter E of chapter 38, or

(2) With respect to any combination or mixture by reason of its containing an oil, fatty acid, or salt with respect to which there has been a previous first domestic processing or upon which an import tax has been paid under subchapter E of chapter 38.

(b) *From additional tax on coconut oil.* The additional tax imposed by section 4511 (b) shall not apply when it is established, in accordance with regulations prescribed by the Secretary or his delegate, that the coconut oil (whether or not contained in a combination or mixture)—

(1) Is wholly the production of the Philippine Islands, any possession of the United States, or the Territory of the Pacific Islands (hereinafter in this paragraph referred to as the "Trust Territory"), or

(2) Was produced wholly from materials the growth or production of the Philippine Islands, any possessions of the United States, or the Trust Territory:

Provided, however, That such additional tax shall apply in respect of coconut oil (whether or not contained in a combination or mixture) so derived from the Trust Territory, to such extent, and at such time after the date of the applicable proclamation, as the President, after taking into account the responsibilities of the United States with respect to the economy of the Trust Territory, shall hereafter determine and proclaim to be justified to prevent substantial injury or the threat thereof to the competitive trade of any country of the free world.

(c) *Processed for exportation.* Upon the giving of bond satisfactory to the Secretary or his delegate for the faithful observance of the provisions of this chapter requiring the payment of taxes, any person shall be entitled, without payment of the tax, to process for exportation any article wholly or in chief value of an article with respect to which a tax is imposed by section 4511.

§ 46.4513–1 Exemption for acids and salts previously taxed.

The tax imposed by section 4511 shall not apply:

(a) With respect to any fatty acid or salt resulting from a previous first domestic processing taxed under section 4511 or upon which an import tax has been paid under subchapter E of chapter 38 of the Code, or

(b) With respect to any combination or mixture by reason of its containing an oil, fatty acid, or salt with respect to which there has been a previous first domestic processing or upon which an import tax has been paid under subchapter E of chapter 38 of the Code.

§ 46.4513–2 Exemption from additional tax on coconut oil.

(a) *Exemption.* The additional tax of two cents per pound, imposed by section 4511(b), does not apply to the first domestic processing of coconut oil or of any combination or mixture containing a substantial quantity of coconut oil wholly produced in, or wholly produced from materials grown or produced in, the Philippine Islands, any possessions of the United States or the Trust Territory of the Pacific Islands, except as specifically provided for in paragraphs (b) and (c) of this section.

(b) *Suspension of exemption.* Notwithstanding the provisions of paragraph (a) of this section, the additional tax of two cents per pound, imposed by section 4511(b), shall apply in respect of coconut oil (whether or not contained in a combination or mixture) so derived from the Trust Territory to such extent and at such time as the President, after taking into account the responsibilities of the United States with respect to the economy of the Trust Territory, shall determine and proclaim to be justified to prevent substantial injury or the threat thereof to the competitive trade of any country of the free world.

(c) *Trust Territory.* The Trust Territory of the Pacific Islands consists of the former Japanese mandated Mariana, Marshall and Caroline Islands (except Guam).

§ 46.4513–3 Exemptions; processed for exportation.

(a) *Exportation bond.* A person may process oil or oils for exportation, without payment of the tax, where (1) the oil or oils are specifically processed for exportation, and the product of such processing is actually exported by such person, and (2) such person has, prior to such processing, filed an acceptable bond with the district director for the district in which he would be required to file a return and pay the tax. The bond shall be in a sum equivalent to the amount of tax which would be incurred during an average three-month period with respect to the processing of articles for exportation, and in no case less than $500. The liability under such bond will be a continuing one, subject to increase as suc-

cessive processing for exportation takes place and to decrease upon proof of exportation of the product of such processing. When the limit of liability under such bond has been reached, no further processing may be performed thereunder until such liability is decreased by actual exportation, or a new bond is filed under which subsequent processing without the payment of the tax will be permitted. For other provisions relating to bonds, see section 7101 and the regulations thereunder contained in Part 301 of this chapter (Regulations on Procedure and Administration).

(b) *Exportation period.* A period of six months will be allowed from the date the oil or oils are put into process, during which time the payment of the tax will not be required unless the product of the processing has been sold or otherwise disposed of in the United States. If at the end of such period satisfactory proof of exportation of the product of the processing is not received, or if during such period the product of the processing has been sold or otherwise disposed of in the United States, the tax on the processing of the oil or oils shall be immediately assessed as of the month the oil or oils were put into process. If proof of exportation later becomes available, a claim for refund may be filed in accordance with the provisions of § 46.6417–2.

(c) *Supplemental exportation statement.* If oil or oils have been processed under bond, the proof of exportation provided for in § 46.6417–2 of the regulations in this part shall be supplemented by a statement containing the following information: (1) The date or dates when the oil or oils were put into process; (2) the date or dates when the product of the processing was exported; and (3) the date or dates when the proof of exportation, as provided for in § 46.6417–2, was received by the processor. The records containing such information and proof of exportation shall be retained for a period of three years from the last day of the month following the calendar quarter in which the oil or oils were put into process.

(d) *Monthly statement.* A person processing oil or oils for exportation under bond shall submit to the district director on or before the last day of each month a statement made under the penalties of perjury, showing the following:

(1) The name and address of the processor;

(2) The kind of oil or oils processed;

(3) The amount of each kind processed under bond on hand at the beginning of the month;

(4) The amount of each kind put into process under bond during the month;

(5) The amount of each kind mentioned in subparagraphs (3) and (4) of this paragraph exported during the month;

(6) The date or dates the amount of each kind mentioned in subparagraph (5) of this paragraph was exported;

(7) The date or dates the amount of each kind mentioned in subparagraph (5) of this paragraph was put into process;

(8) The amount of each kind mentioned in subparagraphs (3) and (4) of this paragraph with respect to which proof of exportation has been received during the month and the date or dates received;

(9) The name of the foreign purchaser;

(10) The amount of each kind mentioned in subparagraphs (3) and (4) of this paragraph sold (other than for export) or otherwise disposed of in the United States and the date thereof;

(11) The amount of tax liability involved on the oil or oils mentioned in subparagraphs (3) and (4) of this paragraph;

(12) The date, term, and penal sum of the bond; and

(13) The amount of tax debited and credited against the bond.

(e) *Wholly or in chief value.* "An article processed wholly or in chief value from an article with respect to which a tax is imposed" is any article made entirely from oil or oils, or any article made of two or more components, the oil or oils constituting a component having a value greater than that of any other component. An article is made from an oil or oils when the oil or oils, or any of their processed forms, have been used in making the article. In determining the value of the oil or oils as a component, the combined values of the oil or oils, and of every processed form thereof used in making the article, shall be the value of the oil or oils as a component.

(f) *Exportation.* "Exportation" means the severance of an article from the mass of things belonging within the United States with the intention of uniting it with the mass of things belonging within some foreign country or within a possession of the United States.

§ 46.4514 Statutory provisions; cross reference to general administrative provisions.

SEC. 4514. *Cross reference to general administrative provisions.* See subtitle F for administrative provisions of general application to the taxes imposed under this chapter.

Subpart D—Tax on Circulation Other Than of National Banks

§ 46.4881 Statutory provisions; imposition of tax.

SEC. 4881. *Imposition of tax*—(a) *Average circulation outstanding.* There shall be imposed—

(1) *Entire circulation.* A tax of one-twelfth of 1 percent each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed and on deposit for said bank; and

(2) *Circulation exceeding 90 percent of capital.* An additional tax of one-sixth of 1 percent each month upon the average amount of such circulation, issued as aforesaid, beyond the amount of 90 percent of the capital of any such bank, association, corporation, company, or person.

In the case of banks with branches, the tax herein provided shall be assessed upon the circulation of each branch severally, and the amount of capital of each branch shall be considered to be the amount allotted to it.

(b) *Circulation paid out*—(1) *Own circulation.* Every person, firm, association other than national bank associations, and every corporation, State bank, or State banking association, shall pay a tax of 10 percent on the amount of their own notes used for circulation and paid out by them.

(2) *Other circulation.* Every such person, firm, association, corporation, State bank, or State banking association, and also every national banking association, shall pay a like tax of 10 percent on the amount of notes of any person, firm, association other than a national banking association, or of any corporation, State bank, or State banking association, or of any town, city, or municipal corporation, used for circulation and paid out by them.

§ 46.4881–1 Imposition of tax on average circulation outstanding.

Section 4881(a)(1) imposes a tax of one-twelfth of 1 percent each month on the average amount of the daily balances of circulation (including certified checks, notes and other obligations calculated or intended to circulate or to be used as money) issued by any bank, association, corporation, company, or person and outstanding. Section 4881(a)(2) imposes an additional tax of one-sixth of 1 percent each month on the average amount of the daily balances of such circulation issued and outstanding beyond the amount of 90 percent of the capital of any such bank, association, corporation, company, or person. The person issuing such circulation is liable for the taxes imposed by section 4881(a). In the case of banks with branches, the tax shall be assessed upon the circulation of each branch severally, and the amount of capital of each branch shall be considered to be the amount allotted to it.

§ 46.4881–2 Tax on circulation paid out.

Section 4881(b)(1) requires every person other than a national banking association to pay a tax of 10 percent of the amount of their own notes used for circulation and paid out by such person. Section 4881(b)(2) requires every person, including national banking associations, to pay a like tax of 10 percent on the amount of notes not its own used for circulation and paid out by such person or association. The tax in respect of notes used for circulation is limited to obligations payable in money and does not affect those payable in anything other than money. A person receiving foreign notes used for circulation in the United States and paying them out again must pay the tax. Canadian or Mexican bank notes, although once used as circulation in the United States, merely received on deposit are not, however, subject to the tax until paid out in the United States. Banks in the United States receiving on deposit and paying out Canadian or Mexican bank notes which have not been, nor are at any time, used for circulation in the United States, are not required to pay the tax. The tax

is not required to be paid on notes of foreign banks and corporations, whether bought in foreign countries or in the United States, which are sold to tourists or others leaving the United States for foreign countries, and have not been used in this country for circulation in lieu of money or currency of the United States. Certified checks of State banks are not notes within the meaning of section 4881(b). Clearinghouse certificates are not subject to the 10 percent tax. However, the 10 percent tax applies in respect of notes used as circulating medium.

§ 46.4882 Statutory provisions; definition of bank or banker.

SEC. 4882. *Definition of bank or banker.* Every incorporated or other bank, and every person, firm, or company having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or for sale, shall be regarded as a bank or as a banker.

§ 46.4883 Statutory provisions; exemptions.

SEC. 4883. *Exemptions*—(a) *Circulation reduced to not over 5 percent of capital.* Whenever the outstanding circulation of any bank, association, corporation, company, or person is reduced to an amount not exceeding 5 percent of the chartered or declared capital existing at the time the same was issued, said circulation shall be free from taxation.

(b) *Circulation under redemption in whole.* Whenever any bank which has ceased to issue notes for circulation deposits in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary or his delegate shall prescribe, it shall be exempt from any tax upon such circulation.

(c) *National banks.* The provisions of this subchapter, relating to the tax on the circulation of banks, and to their returns, except as contained in sections 4881(b)(2), 4883 (a) and (b), 4884(a)(3), and such parts of sections 4884 (a) (1) and (2) and (b), 4885, and 4886, as relate to the tax of 10 percent on certain notes, shall not apply to associations which are taxed as national banks.

(d) *Circulation of insolvent banks.* For exemption in case of insolvent banks, see subtitle F.

§ 46.4883–1 Exemptions on average circulation outstanding.

The exemption under section 4883(a) applies only to the tax imposed by section 4881(a). Under no circumstances does this exemption apply to the tax imposed by section 4881 (b).

§ 46.4884 Statutory provisions; returns and payment of tax.

SEC. 4884. *Returns and payment of tax*—(a) *Circulation outstanding*—(1) *Time for making return.* A true and complete return of the monthly amount of circulation as aforesaid for the previous six months shall be made and rendered in duplicate on the first day of December, and the first day of June, by each of such banks, associations, corporations, companies, or persons.

(2) *Calculation of tax.* The tax imposed by section 4881(a) shall be calculated at the rate per month prescribed by said section, so that the tax for six months shall not be less than the aggregate would be if such taxes were collected monthly.

(3) *Return and payment when State bank converted into national bank.* Whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its bills, by any agreement or understanding whatever with the representatives of such State bank or banking association, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed 5 per centum of the capital before such conversion of such State bank or banking association.

(b) *Circulation paid out.* The amount of circulating notes referred to in section 4881(b), and of the tax due thereon, shall be returned, and the tax paid at the same time, and in the same manner, and with like penalties for failure to return and pay the same, as provided by law for the return and payment of taxes on circulation imposed by section 4881(a).

§ 46.4884–1 Returns and payment of tax; instruction for making returns.

(a) *In general.* Every person who has incurred liability for the tax imposed by section 4881 shall make a return by filing a statement, in duplicate, made under the penalties of perjury, setting forth the following information:

(1) The name and address of the person by whom the liability was incurred.

(2) The particulars relating to each subject of taxation must be stated for each month opposite the name of that month.

(3) If the person making the return commences business during the period covered by the return, the date of such commencement must be stated on the face of the return.

(4) If the person making the return discontinues business during the period covered by the return, the date of such discontinuance and the words "Final Return" must be stated on the face of the return.

The return shall be signed by the president or cashier, member of the firm or the banker. For definition of bank or banker, see § 46.4882.

(b) *Period covered by return.* Returns are required for the periods of six calendar months which end, respectively, on May 30 and November 30.

(c) *Time and place for filing return statements.* The return statement shall be filed on the first day of June and the first day of December with the district director for the internal revenue district in which is located the taxpayer's principal place of business.

(d) *Time and place for paying tax shown on the return.* The tax shown on the return is to be paid by the taxpayer, without notice or assessment, at the time and place fixed for filing the return.

§ 46.4885 Statutory provisions; estimation of outstanding circulation in default of return.

SEC. 4885. *Estimation of outstanding circulation in default of return.* In default of the returns provided in section 4884, the amount of circulation and notes of persons, town, city, and municipal corporations, State banks, and State banking associations paid out, as aforesaid, shall be estimated by the Secretary or his delegate, upon the best information he can obtain.

§ 46.4886 Statutory provisions; cross references.

SEC. 4886. *Cross references.* For penalties and other general and administrative provisions applicable to this subchapter, see subtitle F.

Subpart E—Administrative Provisions

§ 46.6001 Statutory provisions; notice or regulations requiring records, statements, and special returns.

SEC. 6001. *Notice or regulations requiring records, statements, and special returns.* Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe. Whenever in the judgment of the Secretary or his delegate it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary or his delegate deems sufficient to show whether or not such person is liable for tax under this title.

§ 46.6001–1 Records in general.

(a) *Form of records.* The records required by the regulations in this part shall be kept accurately, but no particular form is required for keeping the records. Such forms and systems of accounting shall be used as will enable the district director to ascertain whether liability for tax is incurred and, if so, the amount thereof.

(b) *Copies of returns, schedules, and statements.* Every person who is required, by the regulations in this part or by instructions applicable to any form prescribed thereunder, to keep any copy of any return, schedule, statement, or other document, shall keep such copy as a part of his records.

(c) *Records of claimants.* Any person who, pursuant to the regulations in this part, claims a refund, credit, or abatement, shall keep a complete and detailed record with respect to the tax, interest, addition to the tax, additional amount, or assessable penalty to which the claim relates. Such record shall include any records required of the claimant by paragraph (b) of this section and by §§ 46.6001–2 to 46.6001–3, inclusive, which relate to the claim.

(d) *Place and period for keeping records.* (1) All records required by the regulations in this part shall be kept, by the person required to keep them, at one or more convenient and safe locations accessible to internal revenue officers, and shall at all times be available for inspection by such officers.

(2) Except as otherwise provided in the following sentence, every person required by the regulations in this part to keep records in respect of a tax (whether or not such person incurs liability for such tax) shall maintain such records for at least three years after the due date of such tax for the return period to which the records relate, or the date such tax is paid, whichever is the later. The records of claimants required by paragraph (c) of this section shall be maintained for a period of at least three years after the date the claim is filed.

(e) *Microfilm reproductions.* General books of account, such as cash books,

journals, voucher registers, ledgers, etc., shall be maintained and preserved in their original form. However, microfilm reproductions of supporting records of details, such as invoices, vouchers, production reports, sales records, certificates, proofs of exportation, etc., may be kept in lieu of the original records provided the person required to keep such records (1) retains such microfilmed copies for the period specified in paragraph (d) of this section, (2) provides adequate facilities for the preservation of such films and for the ready inspection and location thereof, including a projector for viewing such records in the event inspection is necessary for tax purposes, and (3) makes any transcription which may be required of the information contained on the microfilm.

§ 46.6001–2 Records relating to sugar tax.

(a) *Manufacturing records.* Every person who manufactured sugar shall keep an accurate monthly record of the manufacturing done by him.

(b) *Content of records.* Such records shall show:

(1) The quantity of manufactured sugar and other sugar on hand at the beginning of the month;

(2) The quantity received during the month;

(3) The quantity of manufactured sugar produced during the month;

(4) The quantity sold during the month;

(5) The quantity of manufactured sugar used during the month in the production of other articles for sale; and

(6) The quantity of manufactured sugar and other sugar on hand at the end of the month.

The records shall show the polariscopic test or total sugars of each grade and type of sugar and manufactured sugar.

§ 46.6001–3 Records relating to coconut and palm oil.

(a) *Processing records.* Every processor shall maintain records and accounts with respect to the first domestic processing of the oil or oils showing:

(1) The quantity of (i) all raw materials from which oils are produced, (ii) all crude or virgin oils, and (iii) all oils which were imported and upon which preliminary processing had been done prior to importation.

(2) Daily records of the quantity of oils put into process, showing the purpose for which used and the products produced therefrom.

(3) The quantity of oils put into process under bond for export.

(b) *Source records.* Records relative to coconut oil or to any combination or mixture containing a substantial quantity of coconut oil, with respect to which oil no tax has been paid, must be maintained in such a manner as to show:

(1) Separately, the quantity of coconut oil, or combination or mixture containing a substantial quantity of coconut oil, which is wholly the production of

(i) The Philippine Islands,

(ii) Guam,

(iii) American Samoa,

(iv) All possessions of the United States, and

(v) The Trust Territory of the Pacific Islands, and

(2) Separately, the quantity of coconut oil, or combination or mixture containing a substantial quantity of coconut oil, produced wholly from materials which are the growth or production of

(i) The Philippine Islands,

(ii) Guam,

(iii) American Samoa,

(iv) All possessions of the United States, and

(v) The Trust Territory of the Pacific Islands.

The records shall also show the country or possession in which the raw materials or oils were produced, when such articles were brought into the United States, and the name and address of the importer.

§ 46.6011(a) Statutory provisions; general requirement of return, statement, or list.

SEC. 6011. *General requirement of return, statement, or list*—(a) *General rule.* When required by regulations prescribed by the Secretary or his delegate any person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary or his delegate. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

§ 46.6011(a)–1 Returns.

(a) *In general.* Liability for tax imposed under section 4501(a) or 4511 shall be reported on Form 720. Except as provided in paragraph (b) of this section, a return on Form 720 shall be filed for a period of one calendar quarter. Every person required to make a return on Form 720 for a return period ended December 31, 1954, shall make a return for each subsequent calendar quarter or month (whether or not liability was incurred for any tax reportable on such return for such return period) until he has filed a final return in accordance with § 46.6011(a)–2. Every person not required to make a return on Form 720 for a return period ended December 31, 1954, shall make a return for the first calendar quarter thereafter in which he incurs liability for tax imposed under section 4501(a) or 4511, and shall make a return for each subsequent calendar quarter or month until he has filed a final return in accordance with § 46.6011(a)–2.

(b) *Monthly returns*—(1) *Requirement.* If the district director determines that any taxpayer who is required to make deposit of taxes under the provisions of § 46.6302(c)–1 has failed to make deposits of such taxes for the first or second month of any calendar quarter, such taxpayer shall be required, if so notified in writing by the district director, to file a monthly return on Form 720, except that, if some other form is furnished by the district director for use in lieu of Form 720, the return shall be made on such other form. Every person so notified by the district director shall make a return for the calendar month in which the notice is received and for each calendar month thereafter until he has filed a final return or is required to make quarterly returns pursuant to notification as provided in subparagraph (2) of this paragraph. However, if the notice provided for in this subparagraph is received after the close of the first calendar month of a calendar quarter, the first return under this subparagraph shall be made for the period beginning with the first day of the quarter and ending with the last day of the month in which the notice is received.

(2) *Termination of requirement.* The district director, in his discretion, may notify the taxpayer in writing that he shall discontinue the filing of monthly returns under this paragraph. If the taxpayer is so notified, the last month for which a return shall be made under this paragraph is the last month of the calendar quarter in which such notice of discontinuance is received. Thereafter, the taxpayer shall make quarterly returns as provided in paragraph (a) of this section.

(c) *Signing and verification of returns.* For provisions relating to the signing and verification of returns, see §§ 46.6061–1 and 46.6065, respectively.

(d) *Time and place for filing returns.* For provisions relating to the time and place for filing returns, see §§ 46.6071(a)–1 and 46.6091–1, respectively.

§ 46.6011(a)–2 Final returns.

(a) *In general.* Any person who is required to make a return on Form 720 pursuant to § 46.6011(a)–1, and who in any return period ceases operations in respect of which he is required to make a return on such form, shall make such return for such period as a final return. Each return made as a final return shall be marked "Final Return" by the person filing the return. A person who has only temporarily ceased to incur liability for tax required to be reported on Form 720, because of temporary or seasonal suspension of his business or for other reasons, shall not make a final return but shall continue to file returns.

(b) *Statement to accompany final return.* There shall be executed as a part of each final return a statement showing the address at which the records required by the regulations in this part will be kept, the name of the person keeping such records, and, if the business of a taxpayer has been sold or otherwise transferred to another person, the name and address of such person and the date on which such sale or transfer took place. If no such sale or transfer occurred or the taxpayer does not know the name of the person to whom the business was sold or transferred, that fact should be included in the statement.

§ 46.6011(a)–3 Return provisions relating to the taxes on circulation other than of national banks.

For return provisions relating to the tax on circulation other than of national banks, see § 46.4884–1.

§ 46.6061 Statutory provisions; signing of returns and other documents.

SEC. 6061. *Signing of returns and other documents.* * * * any return, statement, or

other document required to be made under any provision of the internal revenue laws or regulations shall be signed in accordance with forms or regulations prescribed by the Secretary or his delegate.

§ 46.6061–1 Signing of returns and other documents.

Each return required under the regulations in this subpart shall be signed by (a) the individual, if the taxpayer is an individual; (b) the president, vice president or other principal officer, if the taxpayer is a corporation; (c) a responsible and duly authorized member or officer having knowledge of its affairs, if the taxpayer is a partnership or other unincorporated organization; or (d) the fiduciary, if the taxpayer is a trust or estate. The return may be executed by an agent in the name of the taxpayer if an acceptable power of attorney is filed with the district director and the return includes the total liability of the taxpayer for the period covered by the return.

§ 46.6065 Statutory provisions; verification of returns.

SEC. 6065. *Verification of returns*—(a) *Penalties of perjury.* Except as otherwise provided by the Secretary or his delegate, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

(b) *Oath.* The Secretary or his delegate may by regulations require that any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be verified by an oath. This subsection shall not apply to returns and declarations with respect to income taxes made by individuals.

§ 46.6065–1 Verification of returns.

(a) *Penalties of perjury.* If a return, declaration, statement, or other document made under the regulations in this part is required by the regulations contained in this part, or the form and instructions, issued with respect to such return, declaration, statement, or other document, to contain or be verified by a written declaration that it is made under the penalties of perjury, such return, declaration, statement, or other document shall be so verified by the person signing it.

(b) *Oath.* Any return, statement, or other document required to be submitted under the regulations in this part may be required to be verified by an oath.

§ 46.6071(a) Statutory provisions; time for filing returns and other documents.

SEC. 6071. *Time for filing returns and other documents*—(a) *General rule.* When not otherwise provided for by this title, the Secretary or his delegate shall by regulations prescribe the time for filing any return, statement, or other document required by this title or by regulations.

§ 46.6071(a)–1 Time for filing returns.

(a) *Quarterly returns.* Each return required to be made under paragraph (a) of § 46.6011(a)–1 for a return period of not less than one calendar quarter shall be filed on or before the last day of the first calendar month following the period for which it is made. However, if, and only if, the return is accompanied by depositary receipts (Form 537, Depositary Receipt for Federal Excise Taxes), showing timely deposits, in full payment of the taxes due for the entire calendar quarter, the return may be filed on or before the 10th day of the second calendar month following the period for which it is made. For the purpose of the preceding sentence, a deposit which is not required to be made within such return period may be made on or before the last day of the first calendar month following the close of such period, and the timeliness of the deposit for any month will be determined by the earliest date stamped on the validated Form 537 by an authorized commercial bank or by a Federal Reserve bank.

(b) *Monthly returns.* Each return required to be made under paragraph (b) of § 46.6011(a)–1 shall be filed not later than the fifteenth day of the month following the period for which it is made.

(c) *Last day for filing.* For provisions relating to the time for filing a return when the prescribed due date falls on Saturday, Sunday, or a legal holiday, see § 301.7503–1 of this chapter (Regulations on Procedure and Administration).

(d) *Late filing.* For additions to the tax in case of failure to file a return within the prescribed time, see § 301.6651–1 of this chapter (Regulations on Procedure and Administration).

§ 46.6071(a)–2 Cross references.

For provisions with respect to the time for filing returns relating to the tax on circulation other than of national banks, see § 46.4884–1.

§ 46.6081(a) Statutory provisions; extension of time for filing returns.

SEC. 6081. *Extension of time for filing returns*—(a) *General rule.* The Secretary or his delegate may grant a reasonable extension of time for filing any return, declaration, statement, or other document required by this title or by regulations. Except in the case of taxpayers who are abroad, no such extension shall be for more than 6 months.

§ 46.6081(a)–1 Extension of time for filing returns.

No extension of time will be granted for filing any return or other document required in respect of the taxes to which the regulations in this part have application.

§ 46.6091 Statutory provisions; place for filing returns or other documents.

SEC. 6091. *Place for filing returns or other documents*—(a) *General rule.* When not otherwise provided for by this title, the Secretary or his delegate shall by regulations prescribe the place for the filing of any return, declaration, statement, or other document, or copies thereof, required by this title or by regulations.

(b) *Tax returns.* In the case of returns of tax required under authority of part II of this subchapter—

(1) *Individuals.* Returns (other than corporation returns) shall be made to the Secretary or his delegate in the internal revenue district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in any internal revenue district, then at such place as the Secretary or his delegate may by regulations prescribe.

(2) *Corporations.* Returns of corporations shall be made to the Secretary or his delegate in the internal revenue district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in any internal revenue district, then at such place as the Secretary or his delegate may by regulations prescribe.

* * * * *

(4) *Exceptional cases.* Notwithstanding paragraph (1), (2), or (3) of this subsection, the Secretary or his delegate may permit a return to be filed in any internal revenue district, * * *.

§ 46.6091–1 Place for filing returns relating to sugar and coconut and palm oil.

(a) *Persons other than corporations.* The return of a person other than a corporation shall be filed with the district director for the district in which is located the principal place of business or legal residence of such person. If such person has no principal place of business or legal residence in any internal revenue district, the return shall be filed with the District Director at Baltimore, Maryland, except as provided in paragraph (c) of this section.

(b) *Corporations.* The return of a corporation shall be filed with the district director for the district in which is located the principal place of business or principal office or agency of the corporation. If the corporation has no principal place of business or principal office or agency in any internal revenue district, the return shall be filed with the District Director at Baltimore, Maryland, except as provided in paragraph (c) of this section.

(c) *Return of taxpayers outside the United States.* The return of a person (other than a corporation) outside the United States having no legal residence or principal place of business in any internal revenue district, or the return of a corporation outside the United States having no principal place of business or principal office or agency in any internal revenue district, shall be filed with the Director, International Operations Division, Internal Revenue Service, Washington 25, D.C., unless the principal place of business or legal residence of such person, or the principal place of business or principal office or agency of such corporation, is located in Puerto Rico, in which case the return shall be filed with the Office of the Director, International Operations Division, United States Internal Revenue Service, Santurce, Puerto Rico. For applicability of the tax in respect of manufactured sugar in Puerto Rico, see section 4502(5).

(d) *Cross references.* For provisions relating to the place for filing returns with respect to the taxes on circulation other than of national banks, see § 46.4884–1.

§ 46.6101 Statutory provisions; period covered by returns or other documents.

SEC. 6101. *Period covered by returns or other documents.* When not otherwise provided for by this title, the Secretary or his delegate may by regulations prescribe the period for which, or the date as of which, any return, statement, or other document

required by this title or by regulations, shall be made.

§ 46.6101–1 Period covered by returns or other documents.

The normal period for which returns are ordinarily required is a calendar quarter. Under certain circumstances, the district director may require returns to be filed monthly. For provisions relating to quarterly returns, see paragraph (a) of § 46.6011(a)–1. For provisions relating to monthly returns, see paragraph (b) of § 46.6011(a)–1.

§ 46.6151 Statutory provisions; time and place for paying tax shown on returns.

SEC. 6151. *Time and place for paying tax shown on returns*—(a) *General rule.* Except as otherwise provided in this section, when a return of tax is required under this title or regulations, the person required to make such return shall, without assessment or notice and demand from the Secretary or his delegate, pay such tax to the principal internal revenue officer for the internal revenue district in which the return is required to be filed, and shall pay such tax at the time and place fixed for filing the return (determined without regard to any extension of time for filing the return).

(b) *Exceptions.* * * *

(2) *Use of Government depositaries.* For authority of the Secretary or his delegate to require payments to Government depositaries, see section 6302(c).

(c) *Date fixed for payment of tax.* In any case in which a tax is required to be paid on or before a certain date, or within a certain period, any reference in this title to the date fixed for payment of such tax shall be deemed a reference to the last day fixed for such payment (determined without regard to any extension of time for paying the tax).

§ 46.6151–1 Time and place for paying tax shown on return.

(a) *In general.* The tax required to be reported on each tax return required under this subpart is due and payable to the district director, without assessment or notice and demand, at the time prescribed in § 46.6071(a)–1 for filing such return. For provisions with respect to the time and place for payment of taxes imposed on circulation other than of national banks, see § 46.4884–1.

(b) *Use of Government depositaries.* For provisions relating to the use of Federal Reserve banks and authcrized commercial banks in depositing the taxes, see §§ 46.6302 (c)–1 and 46.6302 (c)–2.

§ 46.6161(a)(1) Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return*—(1) *General rule.* The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

§ 46.6161(a)(1)–1 Extension of time for paying tax shown on return.

No extension of time will be granted for payment of all or any part of the amount of the taxes to which the regulations in this part have application.

§ 46.6302(b) Statutory provisions; mode or time of collection.

SEC. 6302. *Mode or time of collection.* * * *

(b) *Discretionary method.* Whether or not the method of collecting any tax imposed by * * * sections 4501(a) or 4511 of chapter 37 * * * is specifically provided for by this title, any such tax may, under regulations prescribed by the Secretary or his delegate, be collected by means of returns, stamps, coupons, tickets, books, or such other reasonable devices or methods as may be necessary or helpful in securing a complete and proper collection of the tax.

[Sec. 6302(b) as amended by sec. 206(b), Highway Revenue Act 1956 (70 Stat. 391)]

§ 46.6302(b)–1 Method of collection.

For provisions relating to collection by means of returns of the taxes imposed by sections 4501(a) and 4511 of chapter 37, see § 46.6011(a)–1.

§ 46.6302(c) Statutory provisions; mode or time of collection.

SEC. 6302. *Mode or time of collection.* * * *

(c) *Use of Government depositaries.* The Secretary or his delegate may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed under the internal revenue laws, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, time and conditions under which the receipt of such tax by such banks and trust companies is to be treated as payment of such tax to the Secretary or his delegate.

§ 46.6302(c)–1 Use of Government depositaries.

(a) *Requirement*—(1) *In general.* Except as provided in paragraph (b) of this section, if any person required to file a quarterly return, on Form 720, has a total liability of more than $100 for all excise taxes reportable by him for a calendar month on Form 720, the amount of tax reportable with respect to such calendar month shall be deposited by him with a Federal Reserve bank on or before the last day of the next succeeding calendar month. Each such remittance shall be accompanied by a Depositary Receipt for Federal Excise Taxes (Form 537). Such depositary receipt shall be prepared in accordance with the instructions and regulations applicable thereto. The taxpayer shall forward such remittance, together with such depositary receipt, to a Federal Reserve bank or, at his election, to a commercial bank authorized in accordance with Treasury Department Circular No. 848 to accept remittances of the taxes for transmission to a Federal Reserve bank. After the Federal Reserve bank has validated the depositary receipt, such depositary receipt will be returned to the taxpayer. Every taxpayer making deposits pursuant to this section shall attach to his return for the calendar quarter with respect to which such deposits are made, in part or in full payment of the taxes shown thereon, depositary receipts so validated, and shall pay to the district director the balance, if any, of the taxes due for such quarter. An amount of tax which is not required to be deposited may nevertheless be deposited if the taxpayer so desires. If a deposit is made for the last month of the quarter, the taxpayer shall make it in ample time to enable the Federal Reserve bank to return the validated receipt to the taxpayer so that it can be attached to and filed with the taxpayer's return.

(2) *Procurement of depositary receipt form.* Initially, Form 537, Depositary Receipt for Federal Excise Taxes, will so far as possible be furnished the taxpayer by the district director. A taxpayer not supplied with the proper form should make application therefor to the district director in ample time to have such form available for use in making his initial deposit within the time prescribed in subparagraph (1) of this paragraph. Thereafter, a blank form will be sent to the taxpayer by the Federal Reserve bank when returning the validated depositary receipt. A taxpayer may secure additional forms from a Federal Reserve bank by applying therefor and advising the bank of his identification number. The taxpayer's identification number and name, as entered on each depositary receipt, shall be the same as they are required to be shown on the return to be filed with the district director. The address of the taxpayer, as shown on each depositary receipt, shall be the address to which the receipt should be returned following validation by the Federal Reserve bank.

(3) *Taxpayer's identification number.* The taxpayer's identification number for the Depositary Receipt for Federal Excise Taxes, Form 537, shall be the same as the identification number, if any, assigned to the taxpayer for use in connection with depositary receipts required for other internal revenue taxes. If a taxpayer does not have an identification number, he should request the assignment of such a number by the district director for his district.

(b) *Monthly returns.* The provisions of this section are not applicable with respect to taxes for the month in which the taxpayer receives notice from the district director that returns are required under paragraph (b) of § 46.6011 (a)–1, or for any subsequent month for which such a return is required.

§ 46.6302(c)–2 Cross references.

(a) *Failure to deposit.* For provisions relating to the penalty for failure to make a deposit within the prescribed time, see § 301.6656–1 of this chapter (Regulations on Procedure and Administration).

(b) *Saturday, Sunday, or legal holiday.* For provisions relating to the time for performance of acts when the last day falls on Saturday, Sunday, or a legal holiday, see § 301.7503–1 of this chapter (Regulations on Procedure and Administration).

§ 46.6402(a) Statutory provisions; authority to make credits or refunds.

SEC. 6402. *Authority to make credits or refunds*—(a) *General rule.* In the case of any overpayment, the Secretary or his delegate, within the applicable period of limitations, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the

person who made the overpayment and shall refund any balance to such person.

§ 46.6402(a)–1 Authority to make credits or refunds.

For regulations under section 6402 of general application in respect of credits or refunds, see §§ 301.6402–1 and 301.6402–2 of this chapter (Regulations on Procedure and Administration).

§ 46.6404(a) Statutory provisions; abatements.

SEC. 6404. *Abatements*—(a) *General rule.* The Secretary or his delegate is authorized to abate the unpaid portion of the assessment of any tax or any liability in respect thereof, which—

(1) Is excessive in amount, or

(2) Is assessed after the expiration of the period of limitation properly applicable thereto, or

(3) Is erroneously or illegally assessed.

§ 46.6404(a)–1 Abatements.

For regulations under section 6404 of general application in respect of abatements of assessments of tax, see § 301.6404–1 of this chapter (Regulations on Procedure and Administration).

§ 46.6412(d) Statutory provisions; floor stocks refunds.

SEC. 6412. *Floor stocks refunds.* * * *

(d) *Sugar.* With respect to any sugar or articles composed in chief value of sugar upon which tax imposed under section 4501 (b) has been paid and which, on June 30, 1961, are held by the importer and intended for sale or other disposition, there shall be refunded (without interest) to such importer, subject to such regulations as may be prescribed by the Secretary or his delegate, an amount equal to the tax paid with respect to such sugar or articles composed in chief value of sugar, if claim for such refund is filed with the Secretary or his delegate on or before September 30, 1961.

[Sec. 6412(d) as amended by sec. 19, Act of May 29, 1956 (Public Law 545, 84th Cong., 70 Stat. 221); sec. 162(a), Excise Tax Technical Changes Act 1958 (72 Stat. 1306)]

§ 46.6417 Statutory provisions; credits and refunds of taxes on coconut and palm oil.

SEC. 6417. *Coconut and palm oil*—(a) *Sales to States or political subdivisions.* Subject to such rules or regulations as the Secretary or his delegate may prescribe, any person who has sold to a State, or a political subdivision thereof, for use in the exercise of an essential governmental function any article containing any oil, combination, or mixture, upon the processing of which a tax has been paid under section 4511, shall be entitled to a credit or refund of the tax paid with respect to the quantity of such oil, combination, or mixture contained in such article.

(b) *Exportation.* Upon the exportation to any foreign country or to a possession of the United States of any article, wholly or in chief value of an article, with respect to the processing of which a tax has been paid under subchapter B of chapter 37, the exporter thereof shall be entitled to a refund of the amount of such tax.

§ 46.6417–1 Credit or refund of tax on coconut and palm oil sold to a State or political subdivision thereof.

(a) *In general.* Any person who sells to a State or political subdivision thereof, for use in the exercise of an essential governmental function, any article containing any oil, combination, or mixture, with respect to the processing of which a tax has been paid under section 4511, shall be entitled to a credit or refund of the tax so paid upon compliance with the requirements of this section. Such person may either file a claim for refund of such tax on Form 843, or take a credit for such tax against any tax imposed under section 4511 shown to be due on a subsequent return. The claim for refund, or the statement in support of the credit, must contain the evidence required in paragraph (e) of this section. No interest shall be allowed in respect of such credit or refund.

(b) *Sales not qualifying for credit and refund.* No credit or refund may be allowed when the articles described in paragraph (a) of this section are sold to the United States Government, the Government of the District of Columbia, or a Territory or possession of the United States.

(c) *Statement in support of credit taken on a subsequent return.* In addition to the other requirements imposed by this section, any return on which a credit is taken under the provisions of paragraph (a) of this section must be accompanied by a statement, which shall be a part of the return, setting forth clearly and in detail the grounds and facts relied upon in support of the credit.

(d) *Claims for refund.* In addition to the other requirements imposed by this section, any person seeking a refund under the provisions of paragraph (a) of this section must make a claim therefor on Form 843 in the manner prescribed in § 301.6402–2 of this chapter (Regulations on Procedure and Administration).

(e) *Evidence required for credit or refund.* Each claim for refund, or statement in support of a claim for credit, shall show with respect to each delivery to a State or political subdivision thereof—

(1) The actual net weight of each article delivered, together with such a description of the article as will enable the district director to determine the proper amount of refund;

(2) The quantity of oil or oils contained in each article, with respect to the processing of which claim is made that tax was paid;

(3) The amount of tax due and paid on the processing of the oil or oils contained in the article;

(4) Proof satisfactory to the district director that the tax, refund of which is claimed, was actually due and paid;

(5) The date or dates of payment;

(6) The district in which the tax was paid; and

(7) The certificate from an official of the State or political subdivision thereof, as provided in paragraph (f) of this section, certifying that such article was purchased for use in the exercise of an essential governmental function.

Each article with respect to which credit is taken or refund is claimed must be identified.

(f) *Certificate of official of State.* The certificate required by paragraph (e) of this section must include an agreement that if any of the articles covered thereby are used otherwise than in the exercise of an essential governmental function, or if any articles are resold, the State or political subdivision thereof will report such fact to the vendor. In such cases the person to whom the tax has been refunded or credited shall, in turn, report the fact to the district director and forward therewith the amount of the tax refunded or credited with respect to such articles. For provisions relating to penalties for a fraudulent attempt to evade or defeat tax, see section 7201. A separate certificate must be filed with each order and shall be in substantially the following form:

CERTIFICATE IN SUPPORT OF CLAIM FOR REFUND OR CREDIT

(For Use by States or Political Subdivisions)

----------, 19--
(Date)

The undersigned hereby certifies that he is the----------
(Title of officer)
of ----------
(State, city, etc.)
and that the article or articles specified in the accompanying order are purchased for use by the---------- in the
(Department)
exercise of essential governmental functions namely:

It is understood that the right to refund or credit exists only where the articles are purchased for use in the exercise of essential governmental functions. It is agreed that when articles purchased under this certificate are used for purposes other than in the exercise of essential governmental functions or are resold, the vendee will report such fact to the vendor.

(Signature) ---------- (Seal)

§ 46.6417–2 Refund of tax on coconut and palm oil exported.

(a) *In general.* When an article processed wholly or in chief value from oil or oils, with respect to the processing of which a tax has been paid under subchapter B of chapter 37, is exported to a foreign country or to a possession of the United States, the exporter shall be entitled to a refund of the tax due and paid. The test to be applied in determining the right to refund is (1) was the article processed wholly or in chief value from oil or oils with respect to the processing of which a tax has been paid, and (2) was the article actually delivered in a foreign country or in a possession of the United States for use therein. Refund will not be made unless both conditions are satisfied. No interest shall be paid in respect of any such refund.

(b) *Claims for refund.* When any person exports an article processed wholly or in chief value from oil or oils with respect to the processing of which the tax has been paid, he may file a claim for refund of such tax on Form 843 in the manner prescribed in § 301.6402–2 of this chapter (Regulations on Procedure and Administration). In addition thereto, each claim for refund shall show with respect to each export shipment—

(1) The actual net weight of each article exported, together with such a description of the article as will enable the district director to determine the proper amount of refund;

(2) The quantity of oil or oils contained in each article with respect to the processing of which claim is made that tax was paid;

(3) The amount of tax due and paid on the processing of the oil or oils contained in the article;

(4) Proof satisfactory to the district director that the tax, refund of which is claimed, was actually due and paid to a district director;

(5) The date or dates of payment;

(6) The district in which the tax was paid; and

(7) Proof of exportation as provided in paragraph (c) of this section.

(c) *Proof of exportation.* Exportation must be evidenced by—

(1) A copy of the export bill of lading issued by the delivering carrier, or

(2) A certificate by an agent or representative of the export carrier showing actual delivery of the article in a foreign country or a possession of the United States; or

(3) A certificate of landing signed by a customs officer of the foreign country to which the article is delivered; or

(4) Where such foreign country has no customs administration, a sworn statement of the foreign consignee showing receipt of the article.

(d) *Submission of proof by affidavit.* If a person is required to submit proof of exportation (see paragraphs (a) and (b) of this section and § 46.4513–3(c)), and such person possesses the evidence enumerated in paragraph (c) of this section, he may submit with such claim, in lieu of the evidence, an affidavit indicating what evidence is available to prove that the article was in fact exported and at what place such evidence is available for inspection by internal revenue officers. The evidence establishing proof of exportation must be preserved by either the processor or any person who has filed a claim for refund (see paragraphs (a) and (b) of this section) for a period of at least 3 years from the last day of the month following the taxable period in which the first domestic processing began, and must be readily accessible for inspection by internal revenue officers.

§ 46.6418 Statutory provisions; credits and refunds of the tax on sugar.

SEC. 6418. *Sugar*—(a) *Use as livestock feed or for distillation of alcohol.* Upon the use of any manufactured sugar, or article manufactured therefrom, as livestock feed, or in the production of livestock feed, or for the distillation of alcohol, there shall be paid by the Secretary or his delegate to the person so using such manufactured sugar, or article manufactured therefrom, the amount of any tax paid under section 4501 with respect thereto.

(b) *Exportation.* Upon the exportation from the United States to a foreign country, or the shipment from the United States to any possession of the United States except Puerto Rico, of any manufactured sugar, or any article manufactured wholly or partly from manufactured sugar, with respect to which tax under the provisions of section 4501(a) has been paid, the amount of such tax shall be paid by the Secretary or his delegate to the consignor named in the bill of lading under which the article was exported or shipped to a possession, or to the shipper, or to the manufacturer of the manufactured sugar or of the articles exported, if the consignor waives any claim thereto in favor of such shipper or manufacturer; except that no such payment shall be allowed with respect to any manufactured sugar, or article, upon which, through substitution or otherwise, a drawback of any tax paid under section 4501(b) has been or is to be claimed under any provisions of law made applicable by section 4504.

[Sec. 6418 as amended by sec. 21(b), Act of May 29, 1956 (Pub. Law 545, 84th Cong., 70 Stat. 221)]

§ 46.6418–1 Sugar used as livestock feed or for distillation of alcohol.

(a) *Claims for payment.* Any person using any manufactured sugar, or an article manufactured therefrom, with respect to which a tax has been paid under section 4501, (1) as livestock feed, (2) in the production of livestock feed, or (3) for the distillation of alcohol, may file a claim for payment of the amount of tax paid thereon. If the claim for payment relates to tax paid pursuant to section 4501(a), the claim shall be executed by the claimant on Form 843, in the manner prescribed in § 301.6402–2 of this chapter (Regulations on Procedure and Administration). No interest shall be paid in respect of any such claim. If the claim for payment relates to tax paid pursuant to section 4501(b), such claim shall be filed with the collector of customs pursuant to Bureau of Customs regulations.

(b) *Proof of claim.* No claim for payment under section 6418(a) of the tax paid under section 4501(a) will be allowed unless the claimant establishes to the satisfaction of the district director—

(1) That the tax with respect to the manufactured sugar upon which the claim is based was actually paid;

(2) That the manufactured sugar, or article manufactured therefrom, was actually used in the production of livestock feed, or as livestock feed, or for the distillation of alcohol;

(3) The quantity and test of the manufactured sugar upon which the claim is based; and

(4) Such other facts as may be required to determine the claimant's right to the payment.

§ 46.6418–2 Sugar exported.

(a) *Who may file the claim.* The person named as consignor in the bill of lading under which manufactured sugar, or an article processed wholly or partly therefrom, is exported or shipped has the primary right to claim payment of the tax paid, under section 4501(a), with respect to such sugar as provided in section 6418(b). Such person may, however, waive any claim thereto in favor of the shipper or manufacturer, in which case the shipper or manufacturer, as the case may be, will be recognized as the proper claimant. If the person having the primary right to claim payment desires to waive such right, a waiver in substantially the following form shall be attached to any claim made by a shipper or manufacturer:

----------, the consignor(s) named in the bill of lading to which this waiver is affixed or attached, do(es) waive in favor of ----------

(Name of shipper or manufacturer)

any claim for payment allowable under the provisions of section 6418(b) of the Internal Revenue Code of 1954 by reason of the exportation or shipment of the articles described in such bill of lading, and state(s) that such party is the actual shipper or manufacturer of the article or articles exported.

(Consignor named in the bill of lading)

(b) *Claim for payment.* Claim for payment shall be executed by the claimant on Form 843, in the manner prescribed in § 301.6402–2 of this chapter (Regulations on Procedure and Administration). No interest shall be paid in respect of any such claim.

(c) *Proof of claim.* No claim shall be allowed unless the claimant establishes to the satisfaction of the district director:

(1) That the tax with respect to the manufactured sugar upon which the claim is based was actually paid;

(2) That the manufactured sugar, or articles processed wholly or partially therefrom, were actually exported to a foreign country or shipped to a possession of the United States, not including Puerto Rico. Exportation to a foreign country or shipment to a possession may be evidenced by (i) a copy of the bill of lading; (ii) a certificate by an agent or representative of the carrier showing actual delivery of the manufactured sugar or articles in a foreign country or possession of the United States, not including Puerto Rico; (iii) a certificate of landing signed by a customs officer of the foreign country to which the manufactured sugar or articles are delivered; or (iv) if such foreign country has no customs administration, or in the case of shipment to a possession of the United States, not including Puerto Rico, a sworn statement of the consignee showing receipt of the manufactured sugar or articles.

(3) That the tax claimed was not paid with respect to any manufactured sugar, or articles manufactured wholly or partially from manufactured sugar, upon which through substitution or otherwise a drawback of any tax paid under section 4501(b) has been or is to be claimed under any provision of law made applicable by section 4504. A claimant who can meet this requirement shall include in his claim for refund or credit a statement to the effect that no such drawback claim has been or will be filed with the Bureau of Customs.

§ 46.6511(e) Statutory provisions; limitations on credit or refund.

SEC. 6511. *Limitations on credit or refund.* * * *

(e) *Special rules in case of manufactured sugar*—(1) *Use as livestock feed or for distillation of alcohol.* No payment shall be allowed under section 6418(a) unless within 2 years after the right to such payment has accrued a claim therefor is filed by the person entitled thereto.

(2) *Exportation.* No payment shall be allowed under section 6418(b) unless within 2 years after the right to such payment has accrued a claim therefor is filed by the person entitled thereto.

§ 46.6511(e)–1 Special rules applicable to manufactured sugar.

(a) *Use as livestock feed and for distillation of alcohol.* No payment shall be allowed or made under section 6418(a),

unless within 2 years after the date the right to such payment has accrued a claim therefor is filed by the person entitled thereto. Such right accrues as of the date the manufactured sugar, or article manufactured therefrom, is used for a purpose for which payment is allowable under section 6418(a).

(b) *Exportation.* No payment shall be allowed or made under section 6418(b) unless within 2 years after the date the right to such payment has accrued a claim therefor is filed by the person entitled thereto. Such right accrues as of the date the articles are exported.

§ 46.7240 Statutory provisions; officials investing or speculating in sugar.

SEC. 7240. *Officials investing or speculating in sugar.* Any person, while acting in any official capacity in the administration of subchapter A of chapter 37, relating to manufactured sugar, who invests or speculates in sugar or liquid sugar, contracts relating thereto, or the stock or membership interests of any association or corporation engaged in the production or manufacture of sugar or liquid sugar, shall be dismissed from office or discharged from employment and shall be guilty of a felony and, upon conviction thereof, be fined not more than $10,000, or imprisoned not more than 2 years, or both.

§ 46.7654 Statutory provisions; payment to Guam and American Samoa of proceeds of tax on coconut and palm oil.

SEC. 7654. *Payment to Guam and American Samoa of proceeds of tax on coconut and palm oil.* All taxes collected under subchapter B of chapter 37 with respect to coconut oil wholly of the production of Guam or American Samoa, or produced from materials wholly of the growth or production of Guam or American Samoa, shall be held as separate funds and paid to the treasury of Guam or American Samoa, respectively. No part of the money from such funds shall be used, directly or indirectly, to pay a subsidy to the producers or processors of copra, coconut oil, or allied products, except that this sentence shall not be construed as prohibiting the use of such money, in accordance with regulations prescribed by the Secretary or his delegate, for the acquisition or construction of facilities for the better curing of copra or for bona fide loans to copra producers of Guam or America Samoa.

§ 46.7701 Statutory provisions; definitions.

SEC. 7701. *Definitions.* (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) *Person.* The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

* * * * *

(9) *United States.* The term "United States" when used in a geographical sense includes only the States, the Territory of Hawaii, and the District of Columbia.

(10) *State.* The term "State" shall be construed to include the Territory of Hawaii and the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Delegate.* The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform the function mentioned or described in the context, and the term "or his delegate" when used in connection with any other official of the United States shall be similarly construed.

(13) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(14) *Taxpayer.* The term "taxpayer" means any person subject to any internal revenue tax.

* * * * *

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) *Commonwealth of Puerto Rico.* Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this title to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(d) *Cross references*—(1) *Other definitions.* For other definitions, see the following sections of Title 1 of the United States Code:

(1) Singular as including plural, section 1.

(2) Plural as including singular, section 1.

(3) Masculine as including feminine, section 1.

* * * * *

[Sec. 7701 as amended by secs. 22 (g) and (h), Alaska Omnibus Act, (73 Stat. 146 and 147)]

§ 46.7805 Statutory provisions; rules and regulations.

SEC. 7805. *Rules and regulations*—(a) *Authorization.* Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary or his delegate shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary or his delegate may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.

(c) *Preparation and distribution of regulations, forms, stamps, and other matters.* The Secretary or his delegate shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

§ 46.7805–1 Promulgation of regulations.

In pursuance of section 7805 of the Internal Revenue Code of 1954, the foregoing regulations are hereby prescribed. (See § 46.0–4 relating to the scope of the regulations.)

[F.R. Doc. 60–1130; Filed, Feb. 3, 1960; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

FLATHEAD INDIAN IRRIGATION PROJECT, ST. IGNATIUS, MONTANA

Operation and Maintenance Charges

Pursuant to section 4(a) of the Administrative Procedure Act of June 11, 1946 (60 Stat. 238), and authority contained in the acts of Congress approved August 1, 1914, May 18, 1916, and March 7, 1928 (38 Stat. 583; 39 Stat. 142), and by virtue of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs (Order No. 2508; 14 F.R. 258), and by virtue of the authority delegated by the Commissioner of Indian Affairs to the Area Director (Bureau Order No. 551, Amendment No. 1; 16 F.R. 5454–7), notice is hereby given of the intention to modify §§ 221.16 and 221.17 of Title 25, Code of Federal Regulations, dealing with the irrigable lands of the Flathead Indian Irrigation Project, Montana, that are not subject to the jurisdiction of the several irrigation districts as follows:

§ 221.16 Charges, Jocko Division.

(a) An annual minimum charge of $2.85 per acre, for the season of 1960 and thereafter until further notice, shall be made against all assessable irrigable land in the Jocko Division that is not included in an irrigation District organization, regardless of whether water is used.

(b) The minimum charge when paid shall be credited on the delivery of the prorata per acre share of the available water up to one and one-half acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available will be delivered at the rate of one dollar and ninety cents ($1.90) per acre foot or fraction thereof.

§ 221.17 Charges, Mission Valley and Camas Divisions.

(a)(1) An annual minimum charge of $3.24 per acre, for the season 1960 and thereafter until further notice, shall be made against all assessable irrigable land in the Mission Valley Division that is not included in an Irrigation District organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to one and one-half acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available, will be delivered at the rate of two dollars and

sixteen cents ($2.16) per acre foot or fraction thereof.

(b) (1) An annual minimum charge of $3.28 per acre, for the season of 1960 and thereafter until further notice, shall be made against all assessable irrigable land in the Camas Division that is not included in an irrigation District organization regardless of whether water is used.

(2) The minimum charge when paid shall be credited on the delivery of the pro rata per acre share of the available water up to one and one-half acre feet per acre for the entire assessable area of the farm unit, allotment or tract. Additional water, if available, will be delivered at the rate of two dollars and nineteen cents ($2.19) per acre foot or fraction thereof.

Interested parties are hereby given opportunity to participate in preparing the proposed amendments by submitting their views and data or arguments, in writing, to Area Director, U.S. Bureau of Indian Affairs, 804 North 29th Street, Billings, Montana, within 30 days from the date of publication of this notice of intention in the daily issue of the FEDERAL REGISTER.

PERCY E. MELIS,
Area Director.

[F.R. Doc. 60-1109; Filed, Feb. 3, 1960; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 906]

[Docket No. AO-210-A11]

MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

Notice of Extension of Time for Filing Exceptions to Recommended Decision to Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Oklahoma Metropolitan marketing area, which was issued January 20, 1960 (25 F.R. 595), is hereby extended to February 15, 1960.

Dated: February 1, 1960.

ROY W. LENNARTSON,
Deputy Administrator, Agricultural Marketing Service.

[F.R. Doc. 60-1151; Filed, Feb. 3, 1960; 8:53 a.m.]

[7 CFR Part 947]

[Docket No. AO-313]

MILK IN SUBURBAN ST. LOUIS MARKETING AREA

Notice of Extension of Time for Filing Exceptions to the Recommended Decision to Proposed Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed marketing agreement and order regulating the handling of milk in the Suburban St. Louis marketing area, which was issued January 11, 1960 (25 F.R. 293), is hereby extended to February 15, 1960.

Dated: January 29, 1960.

F. R. BURKE,
Acting Deputy Administrator.

[F.R. Doc. 60-1153; Filed, Feb. 3, 1960; 8:53 a.m.]

[7 CFR Part 949]

[Docket No. AO-232-A8]

MILK IN SAN ANTONIO, TEXAS MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions to Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the San Antonio, Texas, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., not later than the close of business the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at San Antonio, Texas, on July 22, 1959, pursuant to notice thereof which was issued July 13, 1959 (24 F.R. 5742).

The material issues on the record of the hearing relate to:

1. Providing for year-round Class II-A classification and pricing of milk used to produce Cheddar cheese;
2. Classifying cultured sour cream and frozen storage cream as Class II milk products;
3. Permitting a cooperative association to become a handler with respect to deliveries to handlers of milk in bulk tanks directly from farms of its members and modifying the shrinkage provisions;
4. Revising the pool plant provisions and providing for location adjustments;
5. Revising the rate and the application of compensatory payments;
6. Converting skim milk solids used to fortify fluid milk products to their skim milk equivalent for accounting purposes; and
7. Revising certain definitions and making certain administrative and conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The Class II-A classification and pricing of milk used to produce Cheddar cheese should be continued on a year-round basis.

For a number of years the San Antonio market has not received enough producer milk to fulfill its fluid requirements, except during the spring months of flush production. During the flush production period, milk produced in excess of fluid needs was used by handlers in the manufacture of cottage cheese and ice cream.

In recent years, production has increased relative to Class I sales. In addition, handlers have depended more and more on the local producers' association to handle their reserve supplies of milk. Now, during many months of the year, considerable quantities of such reserve milk are used to produce Cheddar cheese.

The pounds of Class II-A milk handled are as follows: In 1958, October—566,000; November—82,000; December—387,000; and in 1959, January—327,000; February—none; March—1,085,000; April—1,548,000; May—1,315,000; June—902,000; and in the first 20 days of July—160,000.

Even though the market is still short of milk much of the year, because of the increase in production and the trend of plants towards a five-day week bottling schedule, there will be some milk received on weekends which must be manufactured into Cheddar cheese almost every month in the future.

The producers' association has incurred a substantial financial loss in handling, at the Class II price, the reserve supplies for the market, the only outlet for which is Cheddar cheese.

Official notice is taken of the decision issued by the Assistant Secretary on September 26, 1958 (23 F.R. 7673), effective October 9, 1958, which provided for the present Class II–A classification and pricing provisions in the order on a temporary basis pending further experience in the market. This Class II–A price approximates very closely the returns for the small and fluctuating volumes of milk which have been manufactured into Cheddar cheese by the cooperative association.

A suspension order issued July 28, 1959, effectuated a continuation of the Class II–A classification and pricing provision in the order beyond the July 31, 1959 expiration date, pending action on the proposed amendment.

It is concluded that producers' proposal for the classification and pricing of milk used to produce Cheddar cheese in Class II–A on a year-round basis should be adopted.

2. Cultured sour cream and frozen storage cream should be classified as Class II milk products.

When the order was drafted, skim milk and butterfat disposed of in the form of cultured sour cream were classified as Class I milk because they were required to be made from Grade A milk. Since then, cultured sour cream products which are made from ungraded milk or milk which is classified as Class II milk in other markets have been permitted to be distributed in the marketing area. Such products have come to the San Antonio market from such markets as Chicago, St. Louis, and Dallas. Several San Antonio handlers are distributing such products labeled as "sour cream dressing" or "Yorkshire dressing".

The city of San Antonio now permits sour cream from ungraded sources to be sold in containers labeled "sour cream" if the label includes the word "dressing" in equal prominence.

Inasmuch as such products may be made from ungraded milk, or milk which is priced as Class II milk, San Antonio handlers who must pay the Class I price for milk used in the same products are at a considerable disadvantage as compared with their competitors who procure their supplies from other markets.

The present order includes the classification of fluid milk products carried over in inventory as Class I milk. Under these circumstances, cream moved into cold storage is classified as Class I milk although its ultimate intended use is in ice cream, a Class II milk product. This involves keeping a continuing inventory of the such products as producer milk until they are actually used to produce Class II milk products and the appropriate accommodation is made in their ultimate classification.

During the flush production months when producer milk is available above current requirements for fluid disposition and for ice cream and cottage cheese, handlers process such milk and place the cream in cold storage. This is used in later months, when current receipts are inadequate to satisfy their market needs, for ice cream. Handlers contend that the proposed classification of frozen storage cream in Class II would simplify their accounting procedures with respect to the handling of such milk products.

In view of the foregoing described circumstances, it is concluded that skim milk and butterfat used to produce cultured sour cream and frozen storage cream should be classified as Class II milk.

3. The "handler" definition should be revised to permit a cooperative association to become a handler with respect to farm bulk tank milk of its member producers which it delivers directly to pool plants. The allocation of shrinkage classified as Class II milk should be modified.

A large proportion of the milk delivered to the distributing plants of handlers by the proponent cooperative association serving the market is from farm bulk tanks. This method of handling milk has created a problem in determining who should be responsible in accounting to the pool and making payments to producers for such milk.

When milk comes to market in cans, the milk of individual producers is dumped, weighed, and a sample for butterfat testing is taken by an employee of the plant where the milk is used. The operator of the plant is responsible for accounting for the quantity of milk received from each producer at the determined butterfat test.

When milk comes to market in a bulk tank truck, the weight of the milk is determined and a sample for butterfat testing is taken by the driver at the farm. The milk of a number of producers is intermixed in the tank truck. When the tank truck is owned or operated under the control of the cooperative association, the weight of each producer's milk is checked and a sample for butterfat testing is taken by a person who is an employee of or is directly responsible to the association. The handler who receives the milk contained in the tank from several producers has no way of knowing the weight or the butterfat test of the milk of each producer, except as such information is reported to him by the association. In some cases, especially those involving supplemental loads, the handler may not even know the identity of the producers whose milk he receives.

Making a cooperative association a handler with respect to bulk tank milk of its producer members which it delivers directly from the farm to pool plants would eliminate many of the administrative problems which are being created by the rapid conversion of dairymen to bulk tanks. It would also assist the cooperative association in more effectively balancing the milk supply to the needs of handlers in the market.

No opposition testimony was offered to the producers' proposal.

To date, the problems created by the conversion to bulk tank handling of milk have not been serious and the cooperative association and handlers have resolved any difficulties that have occurred regarding weights and tests of milk in bulk tanks. But as the trend to bulk tanks continues, the number of problems will increase and become more serious.

It is concluded that the handler definition should provide for the inclusion of a cooperative association as a handler with respect to the milk of its producer members which is delivered directly from the farm to the pool plant of a handler in a tank truck owned and operated by or under contract to such cooperative association, unless the association notifies the market administrator and the handler to whom the milk is delivered in writing prior to the first day of the month that it does not wish to be the handler for such milk. If the latter non-handler option is exercised by the cooperative association, the handler at whose pool plant the milk is physically received will continue to be accountable for such milk under the order and responsible for payments to producers, either directly or through their cooperative association authorized to collect such payments, at the uniform price. Farm bulk tank milk for which the cooperative association is the handler shall be deemed to have been received by the association at the location of the pool plant to which it is delivered. The operator of such pool plant will be obligated to pay the association the applicable class prices for such milk.

Qualifying a cooperative association as a handler for farm bulk tank milk of its members necessitates consideration of the allocation of shrinkage incurred on such milk. The present order provides that the first receiving handler of the milk is entitled to shrinkage incurred up to the limit of 2 percent of the skim milk and butterfat in such milk. When the operator of the pool plant which physically receives the milk is the handler and accounts for it on the basis of farm determined weights and samples for butterfat tests, the shrinkage is allocated to such receiving handler. But when the cooperative association becomes the first handler for such milk, some equitable division of the 2 percent permitted as Class II milk should be established between the association for shrinkage incurred between the farm and the plant and shrinkage incurred by the handler who processes the milk. The proponent producer's association testified that an equitable division would be up to one-half of one percent to the cooperative association to cover its shrinkage and up to one and one-half percent to cover shrinkage at the plant which processed the milk.

Another cooperative association which supplies the market with bulk tank milk from its receiving station in Springfield, Missouri, testified that the proposed division of shrinkage should also be made applicable to plants performing receiving station functions which made transfers in bulk to other pool plants where such milk was packaged. It indicated that it had experienced a shrinkage of one-half of one percent in performing the receiving station functions. In other Federal order markets, where generally similar conditions have existed, an allowance of one-half of one percent has been used to accommodate shrinkage incurred in performing receiving station functions and one and one-half percent for shrinkage incurred at the distributing plant.

It is concluded that provision should be made to classify as Class II milk, skim

milk and butterfat in shrinkage allocated to receipts of producer milk in an amount not to exceed one-half of one percent of the total receipts of skim milk and butterfat received from producers by the operator of the pool plant, plus one and one-half percent of the pounds of skim milk and butterfat in milk received at a pool plant from producers and in bulk as milk in fluid form from other pool plants, including farm bulk tank milk received from a cooperative association in its capacity as a handler, except that the additional one and one-half percent shall not apply to milk which is disposed of in bulk as milk in fluid form to another pool plant.

With respect to farm bulk tank milk for which a cooperative association does not elect to become a handler, the operator of the plant at which the milk is physically received would be obligated to account to producers at the reported farm weights. The association in such instances would incur no shrinkage loss and the plant of receipt should be permitted the entire shrinkage on such milk up to the maximum of 2 percent.

4. The pool plant provisions should be revised and location adjustments should be provided in the order.

A cooperative association supplying the market from a receiving facility located at Springfield, Missouri, proposed that the pool plant provision relating to supply plants be broadened. The local producers' association testified in opposition thereto. Both associations, however, favored the inclusion of location adjustment provisions in the order.

The present order limits a supply plant to a plant which is operated by a cooperative association 75 percent or more of the Grade A milk of whose producer members is received during the month at the pool plants of other handlers or is transferred to such plants from the plant of the cooperative association.

The San Antonio market in the past has been a deficit market in that its fluid milk requirements have generally exceeded its supplies of producer milk. Although in recent years production has increased relative to Class I sales, the market is still not fully supplied with producer milk to satisfy its fluid requirements, except during the months of spring flush production.

Under present conditions in the market, the existing pool plant provision results in uneconomic movement and handling of reserve supplies of milk. For example, during the months of March through June of 1959, a cooperative association with its plant more than 700 miles from San Antonio, had to ship 75 percent or more of the milk received at that plant to the San Antonio market to remain qualified to pool the milk of its producers. During the same period, the local producers' association had to convert reserve supplies of local producer milk into Cheddar cheese. The Class II-A price for milk used to produce Cheddar cheese during the March-June period averaged 38 cents per hundredweight less than the Class II price. It would be more economical and provide more orderly marketing to have the reserve supply manufactured in the more distant plant and thereby save on transportation costs. In addition, such reserve milk might well be converted into products yielding a higher monetary return than Cheddar cheese.

In view of the above-described circumstances, it is concluded that the pool plant provisions should be modified to accommodate the situation. Any plant should be qualified as a supply plant and a pool plant if it is approved by the appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area and 50 percent or more of its receipts from dairy farmers, who would be producers if the plant qualified as a pool plant, are shipped to a distributing plant during the month.

It was proposed that the minimum shipping requirement for a supply plant be set at 75 percent. One of the cooperatives proposed that the requirement be set as high as 90 percent. The purpose of the shipping requirements for milk supply plants is to identify those plants which are associated with this market and which, therefore, should be fully regulated and participate fully in the pooling arrangements of the market. It is clear that any plant which ships more than half of its milk to this market is more particularly associated with this market than with any other and, consequently, fixing the shipping requirement at 50 percent of the plant's receipts from dairy farmers will appropriately identify those plants which are associated with this market.

Experience has demonstrated, moreover, that shipping requirements higher than 50 percent frequently cause uneconomic movements of milk for the purpose of maintaining the qualification of plants which are a regular and necessary part of the normal supply for a market. Such a situation is most likely to occur during the months of flush production and those immediately preceding or following such months.

The months of July through February are the period when this market is likely to need the greatest amount of milk from supply plants. Hence, if a supply plant furnishes 50 percent of its milk to the market for this period, it is clearly associated with the market and is one of the primary sources of supply for the market. During the remainder of the year it may not be necessary in supplying this market that as much milk be acquired from supply plants as during the July-February period. Consequently, it is provided as to plants which have shipped 50 percent of their receipts during the July-February period that they may continue to be fully regulated and fully pooled during the remainder of the year. This provision will eliminate the need for making wasteful and uneconomic deliveries from supply plants when such deliveries are not necessary to supply the market adequately.

In conjunction with the above-proposed provision for a supply plant, provisions for location differentials to handlers and producers should be made. The purpose of location differentials is to establish the value of milk for use as Class I products at various locations in relation to some basing point. The milk delivered by farmers directly to a plant in or near the central market is worth more to the handler than milk received from farmers at a plant located far from the market. The reason for this is that from the more distant plant the handler must incur an additional cost of transporting such milk to the central or deficit area of the market. Additional cost of hauling is involved whether the milk is moved in bulk or in packaged form. Thus, the value of milk delivered to plants away from the central market is reduced by a price differential, in this case one approximating the cost of transporting the milk to the central market. The producer's price for milk delivered to a plant at a distant point in turn is reduced by a like differential to compensate for the cost of hauling the milk from such distant point to the central market area.

The rate of location differential should reflect the most efficient and most economic means of transporting milk. Experience in the market shows that the cost of transporting milk in bulk in over-the-road tank trucks from distant points is approximately 15 cents per hundredweight per hundred miles. This rate for location differentials to both handlers and producers approximately reflects the cost of transporting milk to the San Antonio market.

It is concluded that for milk which is received from producers at a pool plant located more than 50 miles from the City Hall in San Antonio, Texas, by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the basic Class I price should be reduced 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is distant from the City Hall in San Antonio, Texas. In calculating such adjustments, transfers to a pool plant at which a location adjustment is not applicable or at which it is less than at the transferor plant may be assigned to Class I only to the extent that Class I disposition at the transferee plant exceeds 95 percent of the receipts from producers at such plant. Such assignment to transferor plants should be made first to plants at which no location adjustment credit is applicable and then in sequence to plants at which the lowest rate of such adjustment credit would apply.

In making payment to producers for their milk received at a plant located more than 50 miles from the City Hall in San Antonio, Texas, the handler may deduct an amount equal to 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is distant from the City Hall in San Antonio, Texas.

5. The present compensatory payment provision should be continued, but it should be modified to incorporate the location adjustments provided for herein. Compensatory payments should not apply to other source milk classified and priced as Class I milk, or on which a compensatory payment has been levied under another Federal order.

The producers' association proposed that the rate of compensatory payment

now applicable during the months of February through July be made effective on a year-round basis. It also testified that compensatory payments should be applied to milk disposed of in the marketing area which has been classified and priced as Class I milk or which was subject to compensatory payments under another Federal order, to correct for any seasonal difference in Class I prices between markets. Handlers testified in opposition thereto.

Under the present terms of the order during the months of February through July, the rate of compensatory payment levied on unpriced Class I milk is the difference between the prices of Class I and Class II milk adjusted by their respective butterfat differentials and for location. During the months of January and August, the rate of payment is the difference between the Class I and uniform price, adjusted by the Class I butterfat differential. For the months of September through December, no compensatory payments are applicable.

The primary purpose of compensatory payments is to prevent the undermining of the classified pricing provisions of the order by assuring that all handlers pay at least minimum order Class I prices for Class I milk. They nullify any advantage a handler may have in procuring surplus milk from other markets on an opportunity cost basis at less than the order Class I price to displace producer milk.

Official notice is taken of the decision issued by the Assistant Secretary of Agriculture on December 16, 1953 (18 F.R. 8585) providing for the present compensatory payments provision. This decision points out that other source milk is available from markets to the north at surplus manufacturing use prices equal to Class II prices under the order during the months of February through July. During January and August, when milk is shorter in supply, handlers would have to pay approximately the equivalent of the uniform price for supplemental milk and for the months of September through December, handlers' procurement costs for such other source milk would be equal to or above the order Class I minimum price when transportation costs to the market are considered. There have been no significant changes in these conditions since the present compensatory payment rates were incorporated in the order. As previously pointed out in this decision, except during the flush season of production, producer milk is still short of satisfying the fluid requirements of the market. Thus, when producer milk is not available in adequate supply, handlers must procure supplemental supplies from other sources. To assess a compensatory payment on other source milk required to meet the needs of the market when milk of producers is inadequate would threaten the supply of milk for the market and place an undue burden on handlers.

For each of the months of August through November for the past several years, except for September and October of 1958 when there was a price controversy between the local cooperative association and the handlers on the market, producer milk allocated to Class I has exceeded 97 percent of producer receipts. For November and December 1958, such allocations were 98 percent and 96 percent, respectively; and for January 1959, approximately 97 percent of the producer milk was allocated to Class I. Producers have not suffered from any significant displacement of their milk in Class I by other source milk.

The present order provides for the application of compensatory payments on other source milk disposed of on routes in the marketing area by a handler regulated under another Federal order. This makes it possible to apply such payments twice to the same milk, if a payment had already been paid on such milk pursuant to the order under which the handler is regulated. It is the purpose of the Act to promote the orderly movement and marketing of fluid milk. Milk classified as Class I under another order, issued pursuant to the Act, or on which a compensatory payment has already been levied under such other order, should not be subject to the compensatory payment provisions of this order.

It is concluded that § 949.60(b) should be deleted and that the present rates of compensatory payments in the order, should be continued, subject to the location adjustment provisions included herein.

6. For skim milk solids used in fortification or reconstitution of fluid milk products, the skim equivalent method of accounting should be used.

Handlers proposed that, in accounting for skim milk solids used to fortify skim milk products, the pounds of added solids should be used rather than their skim equivalent. Producers testified that they should be accounted for on a skim-equivalent basis.

Some handlers in the market have facilities in their plants for making condensed skim milk for their own use or for disposition to other handlers. Other handlers purchase such concentrated solids from other sources. These solids in the form of condensed skim milk or nonfat dry milk are used to reconstitute fluid milk products or to fortify skim milk drinks.

Some Class I products are fortified by adding extra solids to improve their quality and acceptance by consumers. Health regulations require that such solids be made from Grade A milk. Accordingly, they should be classified as Class I milk the same as all other Class I solids. Each pound of nonfat solids utilized in Class I milk products has the same value to the handler as every other pound contained therein. Neither the form in which, nor the source from which, such solids are obtained changes their value to the handler for this purpose. The solids contained in producer skim milk are in fluid form. They are paid for on the basis of all of the water originally associated with such solids. To account for skim milk in powder or condensed form on a comparable basis to that used in accounting for regular skim milk, such solids need to be accounted for on the basis of the quantity of skim milk necessarily used to produce such solids.

7. The complete order should be redrafted and reissued to conform to the amendments recommended above. Several additional terms should also be defined.

The local producer's association proposed advancing the dates for the announcement of prices, the filing of reports, and the dates when handlers are required to make payment to cooperative associations. It complained that often it was impossible for the association to pay its producer members on the dates specified in the order, when non-member producers were paid.

In recent years the association has taken over the producer payrolls and assumed responsibilities formerly performed by handlers. Some handlers, however, do not submit such information and payments to the cooperative association until the final date specified. This does not allow the association enough time to make the many necessary computations and get the producer checks out on the dates for such payment.

Handlers opposed advancing the date of filing their reports from the 7th to the 5th of the month as proposed by producers. They contended that it would be difficult to get their reports to the market administrator by the 5th of the month especially during periods when holidays and weekends occurred during the first five days of the month.

It is concluded that the situation can best be accommodated by providing that each handler, on or before the 20th day of each month, furnish the cooperative association information showing the daily and total pounds of milk received from each of the association's member producers for the first 15 days of such month and, on or before the 10th day after the end of such month, such information for the 16th through the end of such month. This will provide the association with the needed information and adequate time to make its computations with respect to the milk of its member producers without advancing the dates for handler reports.

Some handlers dispose of fluid milk products in the marketing areas of more than one Federal order. Such handlers are regulated under the order in the marketing area where they dispose of the greatest proportion of their milk. If a handler disposes of nearly equal amounts in two marketing areas, it is possible that the regulation of such handler may periodically shift from one order to the other depending upon slight changes in Class I sales. These shifts in sales are sometimes not discovered until audits are made a month or two later. Periodic shifting of the pooling of such a handler's milk from one order to another tends to be disruptive to both orders. To forestall erratic month-to-month shifts from one order to another in the regulation of a handler, it is concluded that if a handler disposes of a greater portion of his milk as Class I milk in another Federal order marketing area for more than two consecutive months, and the handler would be subject to full regulation under such order if he were exempt from this order, such

handler should not be regulated under this order after the second month, except to make reports as the market administrator may require and allow verification of such reports.

Handlers proposed that the other source milk definition be expanded to include products designated as Class II milk from any source, including those of a plant's own production, which are reprocessed or converted in the plant during the month. Such a change will facilitate accounting, by eliminating the need for carrying a perpetual inventory of such products as condensed skim milk or frozen cream made from producer milk, as compared with those products procured from other sources. Thus, the other source milk definition should be modified as proposed.

The local producer's association testified in favor of limiting diversion with respect to producer milk.

In view of the revised supply plant provision included herein, some limitation should be placed on the diversion of milk to deter a handler from adding and pooling the milk of producers whose milk would not be associated with or needed by the market for fluid use, but which would be procured primarily for manufacturing purposes. To accommodate the situation, the producer definition should be modified to provide that in order to qualify as a producer for an entire month, the milk of three-fourths of the days of production during the month of a person must be received at a pool plant. This will afford definite assurance that the milk of such person is associated with the market. If milk for more than one-fourth of the days of production during the month of a person is diverted, such milk should cease to be producer milk for the entire period of such diversion.

Providing for a cooperative association to be a handler for farm bulk tank milk of its members, which it delivers directly to pool plants, may result in some pool plant handlers receiving all of their milk in bulk tanks from such a cooperative association handler and receiving no milk from producers. The order language should therefore be clarified to provide that obligations to the pool, with respect to overage and compensatory payments on other source milk, should be applicable to handlers who operate pool plants regardless of whether they receive milk from producers.

To provide conformity with the present terms in the pricing provisions of the order, a section intitled "Use of equivalent prices" should replace the obsolete section, "Use of equivalent factors in formulas." Such section should provide that if for any reason the price quotation required for computing class prices or butterfat differentials is not available in the manner described, the market administrator should use a price determined by the Secretary of Agriculture to be equivalent to the price which is required. This will facilitate the functioning and the administration of the order.

In redrafting the order, the following new terms should be incorporated to improve the language of the order: The term "route" should be defined to mean any delivery of Class I milk, including any delivery by a vendor or disposition at a plant store, to wholesale or retail outlets, except deliveries in bulk to other pool plants. The term "fluid milk products" should mean milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream or any mixture of cream and milk or skim milk (except eggnog, cultured sour cream, frozen storage cream and bulk ice cream and frozen dairy product mixes); the products which should be classified as Class I milk. These terms are used throughout the order and serve to clarify and state more briefly other order provisions.

No evidence was presented in support of several proposals included in the notice of hearing, hence no consideration has been given to such proposals in this decision.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the San Antonio, Texas, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended.

DEFINITIONS

§ 949.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended, by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 949.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers and to perform the duties of the said Secretary of Agriculture.

§ 949.3 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 949.4 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association (a) to have its entire activities under the control of its members, (b) to have full authority in the sale of milk of its members, and (c) to be qualified under the provisions of the act of Congress of February 13, 1922, as amended, known as the "Capper-Volstead Act".

§ 949.5 San Antonio, Texas, marketing area.

"San Antonio, Texas, marketing area" hereinafter called the "marketing area" means all the territory including all municipal corporations and all Federal military reservations, facilities and installations located within the boundaries of Bexar County, Texas.

§ 949.6 Distributing plant.

"Distributing plant" means all the buildings, premises, and facilities of a plant:

(a) Which is approved by an appropriate health authority having jurisdiction in the marketing area or by another health authority whose certification is accepted by such health authority for the processing of Grade A milk or which is acceptable to an agency of the Federal government for distribution of milk to its installations in the marketing area;

(b) In which milk or skim milk is processed or packaged; and

(c) From which Class I milk is disposed of during the month on routes in the marketing area or from which Class I milk is supplied to installations located in the marketing area of an agency of the Federal government.

§ 949.7 Supply plant.

"Supply plant" means all the buildings, premises, and facilities of a plant equipped to either receive or cool milk, which is approved by the appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area, and from which an amount equal to not less than 50 percent of its receipts from dairy farmers, who would be producers if the plant qualified as a pool plant, are shipped to a distributing plant during the month: *Provided,* That any plant which qualifies as a supply plant for each of the months of July through February shall be considered to be a supply plant for the following months of March through June of such year, except that if the operator of such plant files a written request with the market administrator, supply plant status shall be terminated as of the first of the following month.

§ 949.8 Pool plant.

"Pool plant" means:

(a) A distributing plant (other than one exempt pursuant to § 949.60) which disposes of as Class I milk on routes in the marketing area 15 percent or more of its receipts of milk during the month from pool plants and from dairy farmers conforming to the requirements set forth in § 949.11;

(b) A supply plant; and

(c) Any plant approved by an appropriate health authority having jurisdiction in the marketing area to supply milk for distribution as Grade A milk in the marketing area which is operated by a cooperative association, and 75 percent or more of the producer milk of members is received during the month in the pool plants of other handlers, or is transferred to such plants from the plant of the cooperative association.

§ 949.9 Nonpool plant.

"Nonpool plant" means any plant, other than a pool plant, engaged in receiving, manufacturing or distributing milk.

§ 949.10 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any person in his capacity as the operator of a nonpool plant from which Class I milk is disposed of on routes in the marketing area;

(c) A cooperative association with respect to the milk of a member producer diverted to a nonpool plant for its account pursuant to § 949.11 for each day's milk production that such producer's milk is diverted during the month. Milk so diverted shall be deemed to have been received by the association at a pool plant at the location of the pool plant at which the milk was received prior to diversion; and

(d) A cooperative association with respect to the producer milk of its members which is delivered directly from the farm to the pool plant of a handler in a tank truck owned and operated by or under contract to such cooperative association, unless such association notifies the market administrator and the handler to whom the milk is delivered in writing, prior to the first day of the month, that it does not desire to be the handler for such milk. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the association at the location of the pool plant to which it is delivered.

§ 949.11 Producer.

"Producer" means any person who produces milk, (a) under a dairy farm permit or rating for the production of milk to be disposed of for consumption as Grade A milk, issued by an appropriate health authority having jurisdiction in the marketing area or by another health authority whose certification is accepted by such health authority, or (b) which is acceptable to an agency of the Federal government for fluid consumption in its institutions or bases located in the marketing area; which is received directly from the farm at a pool plant or diverted from a pool plant to a nonpool plant for the account of a cooperative association: *Provided,* That if the days of production of such person for which milk is diverted exceeds one-third of the days of production that milk is delivered to a pool plant during the month, such milk shall cease to be producer milk for the entire period of such diversion. This definition shall not include any person with respect to milk produced by him which is received by a handler partially exempt, pursuant to § 949.60.

§ 949.12 Producer milk.

"Producer milk" means any skim milk or butterfat contained in milk of a producer received at a pool plant or diverted by a cooperative association in accordance with § 949.10(c).

§ 949.13 Other source milk.

"Other source milk" means all skim milk and butterfat:

(a) Other than that contained in producer milk or in receipts of fluid milk products from pool plants;

(b) In products designated as Class II milk pursuant to § 949.41(b) from any source (including those of a plant's own production) which are reprocessed or converted to another product in the plant during the month; and

(c) In any disappearance of non-fluid milk products not otherwise accounted for.

§ 949.14 Fluid milk products.

"Fluid milk products" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream or any mixture of cream and milk or skim milk (except eggnog, cultured sour cream, frozen storage cream and bulk ice cream and frozen dairy product mixes).

§ 949.15 Route.

"Route" means any delivery of Class I milk (including any delivery by a vendor or disposition at a plant store) to wholesale or retail outlets, except deliveries in bulk form to other pool plants.

MARKET ADMINISTRATOR

§ 949.20 Designation.

The agency for the administration of this part shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 949.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 949.22 Duties.

The market administrator shall:

(a) Within 30 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 949.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 949.87) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as the Secretary may request;

(g) Verify all reports and payments of each handler by audit, or such other means as the market administrator finds necessary, of such handler's records and of the records of any other person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts has not:

(1) Made reports pursuant to §§ 949.30 to 949.31, or

(2) Made payments pursuant to § 949.61 and §§ 949.80 to 949.88.

(i) On or before the twelfth day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be assigned to each class in the proportion that the total producer milk in each class is of the total receipts of producer milk by such handler;

(j) Notify handlers and make announcement by such other means as he deems appropriate of prices as follows:

(1) On or before the tenth day of each month the Class I price for such month computed pursuant to § 949.51 and the Class I butterfat differential computed pursuant to § 949.53;

(2) On or before the fifth day of each month the prices of Class II and Class II–A milk for the preceding month computed pursuant to § 949.52 and the butterfat differential for Class II and Class II–A milk computed pursuant to § 949.53; and

(3) On or before the twelfth day of each month for the preceding month the uniform price computed pursuant to § 949.71, and the butterfat differential to producers computed pursuant to § 949.81.

(k) Prepare and publish such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 949.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator for each of his pool plants as follows:

(a) The quantities of skim milk and butterfat contained in producer milk;

(b) The quantities of skim milk and butterfat contained in (or represented by) receipts from pool plants;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk;

(d) The quantities of skim milk and butterfat contained in receipts of Class II and Class II–A products disposed of in the form in which received without further processing or packaging by the handler;

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section; and

(f) Such other information with respect to the receipt and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 949.31 Reports of payments to producers.

On or before the 20th day after the end of each month, each handler who received milk from producers shall submit to the market administrator his producer payroll for the month, which shall show for each producer:

(a) His total deliveries of milk;

(b) The average butterfat content of such milk; and

(c) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

§ 949.32 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all skim milk and butterfat received from any source;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and other milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and other milk products on hand at the beginning and end of each month.

§ 949.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 949.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received within the month at a pool plant in the form of producer milk, other source milk, or receipts from other pool plants shall be classified by the market administrator pursuant to the provisions of §§ 949.41 to 949.46.

§ 949.41 Classes of utilization.

Subject to the conditions set forth in §§ 949.43 and 949.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat:

(1) Disposed of in the form of fluid milk products;

(2) Contained in inventories of fluid milk products on hand at the end of the month; and

(3) All other skim milk and butterfat not specifically accounted for as Class II milk or Class II–A milk;

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those designated as Class I in paragraph (a) of this section or as Class II–A in paragraph (c) of this section;

(2) Disposed of for livestock feed;

(3) In shrinkage allocated to (i) receipts of other source milk in the form of fluid milk products, (ii) receipts of producer milk in an amount not to exceed one-half of one percent of the total receipts of skim milk and butterfat received from producers by the operator of the pool plant, plus one and one-half percent of the total pounds of skim milk and butterfat in milk received at a pool plant from producers and in bulk as milk in fluid form from other pool plants (including milk received from a cooperative association in its capacity as a handler pursuant to § 949.10(d)) and which are not disposed of in bulk as milk in fluid form to another pool plant; and

(c) Class II–A milk shall be all skim milk and butterfat used to produce Cheddar cheese.

§ 949.42 Shrinkage.

The market administrator shall allocate shrinkage to a handler's receipts at pool plants as follows:

(a) Compute the total shrinkage of skim milk and butterfat; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in producer milk and other source milk received in the form of fluid milk products.

§ 949.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat classified as Class II or Class II–A shall be reclassified if such skim milk or butterfat is later disposed of (whether in original or other form) in another classification.

§ 949.44 Transfers.

Skim milk or butterfat transferred from a pool plant in the form of milk, skim milk, or cream shall be classified:

(a) As Class I milk, if transferred to the pool plant of another handler, unless utilization as Class II or Class II–A milk is mutually reported in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transfer occurred, and the amount of skim milk or butterfat so assigned to Class II or Class II–A does not exceed the amount of skim milk or butterfat, respectively, remaining in Class II or Class II–A utilization by the transferee-handler after the subtraction of other source milk pursuant to § 949.46: *Provided,* That the skim milk and butterfat so transferred shall be classified so as to result in a maximum assignment of producer milk first to Class I milk and secondly to Class II milk. In no case shall the assignment to Class I milk in the transferee plant be greater than the difference between its

total receipts of milk and its total utilization of such milk in Class II and Class II–A.

(b) As Class I milk, if transferred or diverted to a nonpool plant except as:

(1) The transferring or diverting handler claims utilization as Class II milk or Class II–A milk;

(2) The operator of the nonpool plant maintains books and records showing the receipts and utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, in which case skim milk and butterfat so transferred or diverted shall be allocated to the highest use classification remaining after subtracting in series beginning with the highest use classification, the skim milk and butterfat in milk received at the nonpool plant directly from dairy farmers who the market administrator determines constitute its regular source of supply for Class I milk.

(c) As Class II milk if transferred subject to verification by the market administrator to a wholesale food manufacturing establishment which has no Class I disposition of skim milk or butterfat.

§ 949.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and for other obvious errors the report submitted by each handler and shall compute the pounds of skim milk and butterfat in each class of milk for such handler. Skim milk contained in any product utilized, produced, or disposed of by the handler during the month shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 949.46 Allocation of skim milk and butterfat classified.

(a) The pounds of skim milk remaining in each class after making the following computations for each handler for each month shall be the pounds of skim milk in such class allocated to producer milk received by such handler during such month.

(1) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in fluid milk products which were on hand at the beginning of the month;

(2) Subtract from the pounds of skim milk in each class the pounds of skim milk received from other pool plants in a form other than milk, skim milk, or cream according to its classification pursuant to § 949.41;

(3) Subtract from the pounds of skim milk remaining in Class II milk the plant shrinkage of skim milk in producer milk classified as Class II milk pursuant to § 949.41(b) (3) (ii);

(4) Subtract from the pounds of skim milk in Class I milk the pounds of skim milk received from a nonpool plant in the form of packaged fluid milk products which are not in excess of the pounds of skim milk transferred to such plant from the nonpool plant of the handler in fluid form and classified as Class I milk;

(5) Subtract from the pounds of skim milk remaining in each class beginning with the lowest priced class the pounds of skim milk in other source milk which were received in the form of nonfluid milk products other than condensed skim milk or nonfat dry milk;

(6) Subtract from the pounds of skim milk remaining in each class beginning with the lowest priced class the pounds of skim milk in other source milk received in the form of condensed skim milk or nonfat dry milk;

(7) Subtract from the pounds of skim milk remaining in each class beginning with the lowest priced class the pounds of skim milk in other source milk received in the form of fluid milk products which were not subject to the Class I pricing and payment provisions of another order issued pursuant to the Act;

(8) Subtract from the pounds of skim milk remaining in each class beginning with the lowest priced class the pounds of skim milk in other source milk received in the form of fluid milk products which were subject to the Class I pricing and payment provisions of another order issued pursuant to the Act;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received from other pool plants according to the class to which they were assigned pursuant to § 949.44(a);

(10) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (3) of this paragraph and if the pounds of skim milk remaining in all classes exceed the pounds of skim milk received from producers, subtract such excess from the pounds of skim milk remaining in the various classes in series beginning with the lowest priced class.

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the same manner prescribed for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of Class I, Class II, and Class II–A milk computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 949.50 Minimum prices.

Subject to the appropriate differentials computed purusant to §§ 949.53 and 949.54 each handler shall pay in the manner set forth in §§ 949.70 to 949.86 for milk received at his pool plant from producers at not less than the prices per hundredweight set forth in §§ 949.51 and 949.52.

§ 949.51 Class I milk.

The Class I milk price shall be the price for Class I milk established under Federal Order No. 43 regulating the handling of milk in the North Texas marketing area plus 42 cents.

§ 949.52 Class II and Class II–A milk.

(a) *Class II milk.* The prices rounded to the nearest cent, for Class II milk shall be determined pursuant to subparagraph (1) of this paragraph for the months of April, May, and June, and the higher of the prices determined pursuant to subparagraphs (1) and (2) of this paragraph for all other months.

(1) The average of the basic or field prices per hundredweight reported to have been paid for milk of 4.0 percent butterfat content received from farms during the month at the following plants or places for which prices have been reported to the market administrator or to the United States Department of Agriculture;

Carnation Co., Sulphur Springs, Tex.
The Borden Co., Mount Pleasant, Tex.
Lamar Creamery, Paris, Tex.

(2) The sum of the amounts computed pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) Multiply by 4.4 the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the United States Department of Agriculture during the month;

(ii) From the average of the carlot prices per pound of nonfat dry milk solids for human consumption, spray process, f.o.b. manufacturing plants in the Chicago area as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the current month, subtract 5 cents, multiply by 8.16.

(b) *Class II–A milk.* Subject to the provisions of § 949.53, the minimum price per hundredweight to be paid by each handler for milk received at his plant from producers and classified as Class II–A milk shall be computed by multiplying by 8.4 the average of the daily prices paid per pound of cheese at Wisconsin Primary markets ("Cheddars" f.o.b. Wisconsin assembling points, cars or truckloads) as reported by the Department for the month involved and rounding to the nearest cent.

§ 949.53 Butterfat differentials to handlers.

If the average butterfat content of the milk of any handler allocated to any class pursuant to § 949.46 is more or less than 4.0 percent, there shall be added to the respective class price, computed pursuant to §§ 949.51 and 949.52 for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent, or subtracted for each one-tenth of 1 percent that such average butterfat content is below 4.0 percent, an amount equal to the butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale prices per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the United States Department of Agriculture during the appropriate month by the applicable factor listed below:

(a) *Class I milk.* Multiply such price for the preceding month by 0.125;

(b) *Class II and Class II–A milk.* Multiply such price for the current month by 0.108.

§ 949.54 Location adjustment credit to handlers.

For milk which is received from producers at a pool plant located more than 50 miles from the City Hall, in San Antonio, Texas, by the shortest hard-surfaced highway distance as determined by the market administrator and which is classified as Class I milk, the price specified in § 949.51 shall be reduced 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is distant from the City Hall in San Antonio, Texas: *Provided,* That in calculating such adjustments, transfers to a pool plant at which a location adjustment is not applicable or at which it is less than at the transferor plant may be assigned to Class I only to the extent that Class I disposition at the transferee plant exceeds 95 percent of the receipts from producers at such plant. Such assignment to transferor plants shall be made first to plants at which no location adjustment credit is applicable and then in sequence to plants at which the lowest rate of such adjustment credit would apply.

§ 949.55 Use of equivalent prices.

If for any reason the price quotation required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 949.60 Handlers subject to other orders.

In the case of any handler who the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by an order issued pursuant to the Act for more than two consecutive months, and the handler would be subject to full regulation under such order if he were exempt from this part, the provisions of this part shall not apply after the second month except that the handler, with respect to the total receipts of skim milk and butterfat, shall make reports to the market administrator at such time and in such manner as the market administrator may require and shall allow verification of such reports by the market administrator.

§ 949.61 Handlers operating nonpool plants.

Each handler who is the operator of a nonpool plant whose milk is not subject to the classification and Class I pricing provisions of another order issued pursuant to the Act shall report, as required pursuant to § 949.30, reporting receipts from dairy farmers in lieu of such information with respect to producers, shall allow verification of such reports, and on or before the 13th day of each month he shall pay to the market administrator an amount computed by multiplying the total volume of Class I milk disposed of on routes in the marketing area from such nonpool plant during the preceding month by the rate of compensatory payments computed pursuant to § 949.65.

UNPRICED MILK

§ 949.65 Rate of payment on unpriced milk.

The rate of payment per hundredweight applicable to other source milk assigned to Class I use at pool plants and which has not been subject to the classification and Class I pricing provisions of another order issued pursuant to the Act or which is disposed of as Class I milk on routes in the marketing area from nonpool plants shall be calculated as follows:

(a) For the months of February through July, subtract the Class II price, adjusted by the Class II butterfat differential, from the Class I price, adjusted by the Class I butterfat differential, and, except in the case of condensed skim milk and nonfat dry milk, by the location adjustment pursuant to § 949.54 which would be applicable if the nonpool plant were a pool plant; and

(b) During the months of January and August, subtract from the Class I price, adjusted by the Class I butterfat differential, the uniform price to producers, adjusted by the Class I butterfat differential.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 949.70 Computation of value for each handler.

For each month the market administrator shall compute the value of milk for each handler as follows:

(a) *Handlers who receive milk from producers:*

(1) Multiply the quantity of producer milk in each class computed pursuant to § 949.46 by the applicable class price;

(2) If any overage has been deducted pursuant to § 949.46 (a) and (b), multiply such amount by the applicable class price;

(3) For the months of January through August, multiply the hundredweight of other source skim milk and butterfat subtracted from Class I milk pursuant to § 949.46(a) (5) through (7) and (b) by the applicable rate determined pursuant to §949.65; and

(4) Add together the resulting amounts in (1) through (3) of this paragraph.

(b) *Handlers who operate pool plants but who receive no milk from producers:*

(1) If any overage has been deducted pursuant to § 949.46 (a) and (b), multiply such amount by the applicable class price;

(2) For the months of January through August, multiply the hundredweight of other source skim milk and butterfat subtracted from Class I milk pursuant to § 949.46(a) (5) through (7) and (b) by the applicable rate determined pursuant to § 949.65; and (3) Add the resulting amounts in (1) and (2) of this paragraph.

§ 949.71 Computation of uniform price for pool milk.

For each month the market administrator shall compute the uniform price for all milk received from producers as follows:

(a) Combine into one total the amounts computed pursuant to § 949.70 (a) and (b) for all handlers who made the reports prescribed in § 949.30 and who are not in default of payments required pursuant to §§ 949.80 and 949.84;

(b) Add an amount representing not less than one-half of the unobligated cash balance in the producer-settlement fund account pursuant to § 949.83;

(c) Add the total value of the location adjustments to producers computed pursuant to § 949.82;

(d) Subtract if the average butterfat content of the producer milk of handlers included in the computations pursuant to paragraph (a) of this section is greater than 4.0 percent, or add if such average is less than 4 percent, an amount computed by multiplying the amount by which such average butterfat content varies from 4.0 percent by the butterfat differential computed pursuant to § 949.81 and multiply the resulting amount by the hundredweight of such milk;

(e) Divide by the total hundredweight of producer milk of handlers included in the computation pursuant to paragraph (a) of this section;

(f) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price per hundredweight for all milk of 4.0 percent butterfat content received from producers.

PAYMENT FOR MILK

§ 949.80 Time and method of payment.

(a) Each handler shall pay to a cooperative association on or before the 13th day of the month for milk received from it during the preceding month, for which such association is a handler pursuant to § 949.10(d), the value of such milk at not less than the applicable class prices.

(b) Except as provided in paragraph (3) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(1) On or before the last day of each month, for milk received during the first 15 days of such month at not less than the price per hundredweight for Class II milk for the preceding month;

(2) On or before the 15th day after the end of the month during which the milk was received at not less than the uniform price per hundredweight computed for such month pursuant to § 949.71 subject to the following adjustments: (i) the butterfat differential pursuant to § 949.81, (ii) the location adjustment pursuant to § 949.82, (iii) the payment made pursuant to subparagraph (1) of this section, (iv) marketing service deductions pursuant to § 949.87, and (v) proper deductions authorized by such producer: *Provided,* That if by such date such handler has not received full payment pursuant to § 949.85, he may reduce his total payment to all producers pro rata by not more than the amount of reduction in payments from the market administrator; he shall, however, complete such payments pursuant to this subparagraph not later than the date for making such payments next following receipt of the

balance due from the market administrator;

(3) (i) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall on or before the 20th day of each month furnish the cooperative association information showing the daily and total pounds of milk received from each of the association's member producers for the first 15 days of such month and, on or before the 10th day after the end of each month, such information for the 16th through the end of such month, and shall pay to such association on or before the 26th and 13th day of each month, in lieu of payments pursuant to subparagraphs (1) and (2) respectively, of this paragraph an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(ii) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(4) In making the payments to producers pursuant to subparagraphs (2) and (3) of this paragraph, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show:

(i) The month for which payment is made and the identity of the handler and of the producer;

(ii) The total pounds and average butterfat test of milk received from such producer;

(iii) The minimum rate or rates at which payment to such producer is required;

(iv) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(v) The amount or rate per hundredweight of each deduction claimed by the handler; together with a description of the respective deductions; and

(vi) The net amount of payment to such producer.

§ 949.81 Producer butterfat differential.

In making payments pursuant to § 949.80 there shall be added to the uniform price for each one-tenth of one percent that the average butterfat content of such milk is above 4.0 percent not less than, or there may be deducted from the uniform price for each one-tenth of one percent that the average butterfat content of such milk is below 4.0 percent not more than an amount computed as follows: Multiply by 1.1 the simple average computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the United States Department of Agriculture during the month, divide the result by 10 and round to the nearest one-tenth of a cent.

§ 949.82 Location adjustment to producers.

In making payments to producers pursuant to § 949.80 for that milk which is received from producers at a pool plant located more than 50 miles from the City Hall in San Antonio, Texas, by the shortest hard-surfaced highway distance as determined by the market administrator, the handler may deduct an amount equal to not more than 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is distant from the City Hall in San Antonio, Texas.

§ 949.83 Producer-settlement fund.

The market administrator shall establish a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers, pursuant to §§ 949.61, 949.84, and 949.86 and out of which he shall make all payments, pursuant to §§ 949.85 and 949.86.

§ 949.84 Payments to the producer-settlement fund.

On or before the 13th day after the end of the month during which the milk was received, each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount of money, if any, by which the value of the milk received by such handler from producers as determined pursuant to § 949.70 is greater than the value of such milk calculated at the uniform price adjusted by the producer butterfat differential and the location adjustment to producers.

§ 949.85 Payments out of the producer-settlement fund.

On or before the 14th day after the end of the month during which the milk was received, the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the value of the milk received by such handler from producers during the month as determined pursuant to § 949.70 is less than the value of such milk calculated at the uniform price adjusted by the producer butterfat differential and the location adjustment to producers.

§ 949.86 Adjustment of accounts.

Whenever audit by the market administrator of any handler's books, reports, records, or accounts discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

§ 949.87 Marketing service.

(a) *Marketing service deduction.* Except as set forth in paragraph (b) of this section each handler, in making payments to producers (other than himself) shall make a deduction of six cents per hundredweight of milk or such lesser deduction as the Secretary from time to time may prescribe. Such deductions shall be paid by the handler to the market administrator on or before the 15th day after the end of the month. Such moneys shall be expended by the market administrator for verification of weights and tests of milk received from such producers and in providing market information to such producers.

(b) *Marketing service deduction with respect to producers who are members of or are marketing through a cooperative association.* In the case of each producer who is a member of, or who has given written authorization for the rendering of marketing services and the taking of a deduction therefor to a cooperative association, which the Secretary has determined is performing the services described in paragraph (a) of this section, such handler, in lieu of the deduction specified under paragraph (a) of this section, shall deduct from the payments to such producer the amount per hundredweight specified by such association which is not in excess of the rate authorized by such producer and shall pay such deduction to the cooperative association entitled to receive it on or before the 15th day after the end of the month during which such milk was received.

§ 949.88 Payment of administration expense.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may from time to time prescribe, with respect to skim milk and butterfat (a) received from producers, (b) received at a pool plant as other source milk and allocated to Class I milk, or (c) distributed as Class I milk in the marketing area from a nonpool plant during such preceding month.

§ 949.89 Termination of obligation.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The delivery period during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the agreement (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 949.90 Effective time.

The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 949.91.

§ 949.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision of this part whenever he finds this part or any provision of this part obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate in any event whenever the provisions of the Act authorizing it cease to be in effect.

§ 949.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 949.93 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 949.100 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 949.101 Separability of provisions.

If any provision of this part or its application to any person or circumstances is held invalid, the application of such provision, and the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D.C., this 1st day of February 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-1152; Filed, Feb. 3, 1960; 8:53 a.m.]

Commodity Stabilization Service

[7 CFR Part 815]

ALLOTMENT OF DIRECT-CONSUMPTION PORTION OF 1960 MAINLAND SUGAR QUOTA FOR PUERTO RICO

Recommended Decision and Opportunity To File Written Exceptions

Pursuant to the provisions of the Sugar Act of 1948, as amended (61 Stat. 922, as amended) hereinafter referred to as the "act", and the applicable rules of practice and procedure (7 CFR 801.1 et seq), notice is hereby given of the filing with the Hearing Clerk of the Recommended Decision of the Administrator, Commodity Stabilization Service, United States Department of Agriculture, with respect to a proposed order of the Secretary of Agriculture for the allotment of the direct-consumption portion of the 1960 mainland sugar quota for Puerto Rico. Interested persons may file written exceptions to this recommended decision and proposed order, together with supporting reasons therefor, with the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., within 10 days after the date of filing of the recommended decision with the Hearing Clerk, which date shall be the date of publication of this notice in the FEDERAL REGISTER. The date of filing of written exceptions with the Hearing Clerk by mail shall be the postmark date of submission of such exceptions.

Preliminary statement. Under the provisions of section 205(a) of the act, the Secretary is required to allot a quota or proration thereof whenever he finds that allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate or foreign commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons an equitable opportunity to market sugar or liquid sugar within the quota for the area. Section 205(a) also provides that such allotment shall be made after such hearing and upon such notice as the Secretary may by regulation prescribe.

Pursuant to the applicable rules of practice and procedure (7 CFR 801.1 et seq), a preliminary finding was made that allotment of the direct-consumption portion of the quota is necessary and a notice was published on October 9, 1959 (24 F.R. 8239) of a public hearing to be held at Santurce, Puerto Rico, in the Conference Room, Caribbean Area Office, ASC, Segarra Building, on November 5, 1959, at 10:00 a.m., for the purpose of receiving evidence to enable the Secretary to make a fair, efficient and equitable distribution of the direct-consumption portion of the 1960 mainland sugar quota for Puerto Rico. The hearing was held at the time and place specified in the notice.

In arriving at the findings, conclusions and regulatory provisions contained herein, all proposed findings and con-

clusions were carefully and fully considered in conjunction with the record evidence pertaining to the allotment of the direct-consumption portion of the mainland quota. To the extent that findings and conclusions proposed by interested persons are inconsistent with the findings and conclusions recommended herein, the specific or implied requests to make such findings and reach such conclusions are denied on the basis of the facts recommended to be found and the conclusions recommended to be reached as set forth herein.

The following portions of the Administrator's recommended decision consisting of the basis for his proposed findings and conclusions, proposed findings and conclusions, and proposed determination are set forth in form and language appropriate for issuance if adopted by the Secretary as his findings and conclusions and final determination.

Basis for findings and conclusions. Section 205(a) of the act reads in pertinent part as follows:

> * * * Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processing of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person and the ability of such person to market or import that portion of such quota or proration thereof allotted to him * * *

The record of the hearing regarding the subject of this order shows that the capacity to produce refined sugar in Puerto Rico far exceeds the maximum quantity of Puerto Rican direct-consumption sugar that may be marketed within the prospective 1960 mainland and local quotas of approximately 255,000 to 270,000 short tons, raw value. Thus, to prevent disorderly marketing of sugar and to afford all interested persons an equitable opportunity to market sugar within the quota as required by section 205(a) of the act, allotment of the direct-consumption portion of the mainland sugar quota for Puerto Rico has been found to be necessary (R. 9, 10).

While all three factors specified in the provisions of section 205(a) of the act quoted above have been considered, only the "past marketings" and ability to market factors have been given percentile weightings in the formula on which the allotment of the direct-consumption portion of the 1960 mainland quota for Puerto Rico is based. Testimony indicates that allottees accounting for over 93 percent of the direct-consumption sugar brought into the continental United States do not process sugar from sugarcane and that giving weight to the factor "processing from proportionate shares" would not lead to equitable allotments (R. 10).

The government witness proposed that the factor "past marketings" be measured for each processor and refiner by the average annual quantity of direct-consumption sugar which he marketed in the continental United States within the mainland quotas for Puerto Rico during the five years 1955 through 1959, inclusive, expressed as a percentage of the sum of such quantities for all processors and refiners (R. 11). The witness stated that the use of the quantities marketed in the most recent five-year period will reflect market conditions similar to those which would be expected to occur in the marketing of direct-consumption sugar in the mainland in 1960, and furthermore that a five-year average of such marketings tends to minimize shortrun influences affecting data for a single year and adds stability to the "past marketings" factor (R. 11, 12).

The government witness proposed that the factor "ability to market" be measured by the largest quantity of direct-consumption sugar marketed in the mainland by each refiner and processor in any one of the past five years, 1955 through 1959, expressed as a percentage of the sum of such quantities for all refiners and processors (R. 12). The witness stated that marketings of direct-consumption sugar in the recent period, 1955 through 1959, are considered to be a more effective measure of processor's and refiner's relative ability to market sugar in 1960 than are their marketings in a more remote period (R. 12, 13).

In determining allotments of the direct-consumption portion of the mainland quota for 1960 the government witness proposed that the factors "past marketings" and "ability to market" be weighted equally as was done in establishing past allotments of the quota (R. 13). Further testimony indicated that the need for a reserve for the marketing of raw sugar within the direct-consumption portion of the mainland quota appears to be practically nonexistent (R. 13, 14). Accordingly, it was proposed that the entire quantity which may be brought into the continental United States within the 1960 mainland quota for Puerto Rico be allotted by applying 50 percent weight to each of the factors "past marketings" and "ability to market" measure for each allottee as indicated in the preceding paragraphs.

At the hearing no other proposals were submitted, however, subsequent to the hearing and prior to November 20, 1959, Central Roig Refining Company, in a brief, proposed that the factor of ability to market be measured by the largest quantity of direct-consumption sugar marketed in the mainland by each refiner in any one of the 15 years, 1945 through 1959. Data relating to marketings of direct-consumption sugar to the mainland prior to 1948 are not included in the record of this hearing.

A copy of the brief filed by the Central Roig Refining Company was sent to all interested parties and the period for submission of briefs was extended to December 10, 1959. Prior to such date two briefs were submitted in which Western Sugar Refining Company concurred with the proposal of Central Roig Refining Company and Porto Rican American Sugar Refinery, Inc., concurred with the government proposal made at the hearing.

In determining ability to market, the performance of allottees as reflected in actual shipments of direct-consumption sugar to the mainland is considered the best and most practical measure. The use of the most recent five-year period provides a sufficient period of time for allottees to demonstrate ability to market. The largest quantity marketed by an allottee in any one year during such a recent period would be more indicative of current relative ability to market than the highest year's marketings in a more remote period. On the basis of the hearing record it appears there has been no impairment in recent years in the capacity of the production facilities of the allottees that are subject to the allotment order issued pursuant to this proceeding. The use of the period 1945–59 as a measure of ability would include years immediately after World War II in which marketing conditions are less representative of conditions to be faced in 1960 and marketings in the early years of this period would be less indicative of relative ability to market sugar in 1960 than the most recent five-year period. Furthermore, the proration of allotment deficits during four of the last five years provided additional marketing opportunities to allottees who demonstrated ability to utilize additional allotments. In view of the foregoing, the method of measuring the factor "ability to market" proposed by the government has been adopted in preference to the measure of such factor as proposed by Central Roig Refining Company.

In accordance with the record of the hearing (R. 18) provision has been made in the findings and the order to revise allotments without further notice or hearing for purposes of (1) giving effect to the substitution of revised estimates or final data for estimates of the quantity of direct-consumption sugar imported into the continental United States by each allottee in 1959, (2) allocating any quantity of an allotment released by an allottee to other allottees or to a reserve for "All other persons" when written notification of such release is received by the Department, and (3) giving effect to any change in the direct-consumption portion of the mainland quota. Also, as proposed in the record (R. 22), the findings and order contain provisions relating to restrictions on marketing similar to those contained in the 1959 Puerto Rican allotment order since such provisions operated successfully in 1959 and no objection was made in the record to their inclusion.

The record of the hearing discloses that South Puerto Rico Sugar Corporation did not market direct-consumption sugar in the mainland during the period 1948 through 1959 and that no appearance was made on behalf of such company to request an allotment and that no evidence was introduced in the record to support an allotment for that corporation. Consequently, the record of the hearing provides no basis for South Puerto Rico Sugar Corporation to receive an allotment of the 1960 quota.

At the hearing testimony was given to the effect that the name of Porto Rican American Sugar Refinery, Inc., has been changed officially to Puerto Rican American Sugar Refinery, Inc. (R. 29).

Findings and conclusions. On the basis of the records of the hearing I hereby find and conclude that:

(1) The potential capacity of Puerto Rican processors and refiners to produce direct-consumption sugar during the calendar year 1960 is about 320,000 short tons and this quantity is far greater than the total quantity of such sugar which may be marketed within the 1960 sugar quotas for Puerto Rico.

(2) The allotment of the direct-consumption portion of the 1960 mainland sugar quota for Puerto Rico is necessary to prevent disorderly marketings of such sugar and to afford each interested person an equitable opportunity to market such sugar in the continental United States.

(3) Assignment of percentile weight to the "processing from proportionate shares" factor in the allotment formula would not result in fair, efficient and equitable allotments.

(4) The "past marketings" factor shall be measured by each allottee's percentage of the average entries of direct-consumption sugar by all allottees in the continental United States during the years 1955 through 1959.

(5) The "ability to market" factor shall be measured for each allottee by expressing each allottee's largest entries of direct-consumption sugar into the United States during any one of the past five years, 1955 through 1959, as a percent of the sum of such entries for all allottees.

(6) The quantities of sugar and percentages referred to in paragraphs (4) and (5), above, based on data involving estimates for 1959 direct-consumption entries which shall be used to establish allotments pending availability and substitution of revised or final data for such estimates, are set forth in the following table:

Allottee	Average annual marketings 1955-59		Highest annual marketings 1955-59	
	Short tons, raw value (1)	Percent of total (2)	Short tons, raw value (3)	Percent of total (4)
Central Aguirre Sugar Co., a trust	6,298	4.8100	6,931	4.9116
Central Roig Refining Co	20,047	15.3105	21,365	15.1400
Central San Francisco	1,382	1.0555	1,591	1.1274
Puerto Rican American Sugar Refinery, Inc	82,364	62.9040	88,723	62.8724
Western Sugar Refining Co	20,845	15.9200	22,506	15.9486
Total	130,936	100.0000	141,116	100.0000

(7) Allotments totaling the direct-consumption portion of the 1960 Puerto Rican mainland quota should be established by giving fifty percent weight to past marketings, measured as provided in paragraph (4), above, and fifty percent weight to ability to market, measured as provided in paragraph (5), above.

(8) This order may be revised without further notice or hearing for the purpose of substituting revised estimates or final data for previous estimates of the Puerto Rican direct-consumption sugar entries by and on behalf of each allottee in 1959 when such revised or final data become part of the official records of the Department.

(9) This order shall be revised without further notice or hearing to revise allotments to give effect to any change in the direct-consumption portion of the 1960 quota for Puerto Rico on the same basis as is provided in these findings for establishing allotments.

(10) This order shall require each allottee to submit to the Department in writing in the following form, no latter than October 1, 1960, an estimate of the maximum quantity of direct-consumption sugar he will be able to market during the quota year within any allotment, and a release for allocation to other allottees as an allotment deficit of quantities of sugar in excess of such maximum quantity:

I, the undersigned allottee, estimate that I will be able to market not to exceed ------ short tons, commercial weight, equivalent to ------ short tons, raw value, of sugar during the entire calendar year 1960 within any allotment of the direct-consumption portion of the 1960 mainland quota for Puerto Rico which may be established for me pursuant to S.R. 815.

I release for disposition under the provisions of S.R. 815 the portion of any allotment in excess of the above stated quantity of sugar, and any quantity of sugar which would increase my allotment in excess of such stated amount as a result of either the allotment of any increases in the direct-consumption portion of the Puerto Rican sugar quota or the allocation of any quantities of sugar released by one or more other allottees, occurring in either case, from the date of this release until the end of the calendar year.

An allottee may revise a previous notice of the maximum quantity he may market during the quota year and a previous release of allotment deficit by submitting to the Department on the prescribed form a new notice of the maximum quantity he may market during the quota year and a new release of allotment deficit. A revised notice and release may be given effect only to the extent that the allotment of any other allottee will not be reduced solely thereby as provided in Finding (11).

(11) This order shall provide for allotment without further notice or hearing of any quantity of sugar that may be released by an allottee as provided in Finding (10) when quantities of sugar become available for allotment.

In revising allotments for the purpose of giving effect to a quota increase or decrease, or to give effect to a release by an allottee, allotment deficits shall be determined and allocated without regard to any previous determination and proration of deficits and such deficits shall be allocated proportionately among other allottees to the extent they are able to utilize additional allotments, on the basis of allotments computed for such allottees without including allocation of any allotment deficits: *Provided,* That, the allotment previously in effect for an allottee which includes a deficit proration shall not be reduced solely to give effect to a revised notice received from another allottee subsequent to such deficit proration and which notice increases the declared maximum quantity such other allottee is able to market. Such deficit allocations to any allottee shall be limited in accordance with the written statement of the maximum quantity he will market submitted as provided in Finding (10) of this section. In the event the total of allotment deficits released by allottees exceeds the total quantity which can be utilized by other allottees, the excess quantity shall be allotted to a reserve for "All other persons".

(12) Official notice will be taken of (a) written notice to the Department by an allottee of the estimated maximum marketings of such allottee within an allotment and of the quantities of sugar released for reallotment when the notification becomes a part of the official records of the Department, (b) estimated and final data for 1959 calendar year marketings of sugar for direct-consumption on the mainland that become a part of the official records of the Department, and (c) any regulation issued by the Secretary which changes the direct-consumption portion of the 1960 mainland quota for Puerto Rico.

(13) Each allottee in 1960 shall be restricted from bringing into the continental United States for consumption therein any direct-consumption sugar in excess of the smaller of his allotment established herein or the sum of the quantity of sugar produced by the allottee from sugarcane grown in Puerto Rico and the quantity of sugar acquired from Puerto Rican processors by the allottee in 1960 for shipment to the mainland within the applicable 1960 mainland quota for Puerto Rico. All other persons shall be prohibited from bringing direct-consumption sugar into the continental United States in 1960 for consumption therein except such sugar acquired in 1960 from an allottee within his allotment established herein or sugar brought in within an unallotted reserve which may be established for "All other persons". All persons collectively shall be prohibited from bringing into the continental United States any direct-consumption sugar other than crystalline sugar in excess of the quantity by which the direct-consumption portion of the mainland quota exceeds 126,033 short tons, raw value.

(14) To facilitate full and effective use of allotments, provision shall be made in the order for transfer of allotments under circumstances of a succession of interest.

(15) Allotments established in the foregoing manner and the amounts set forth in the order provide a fair, efficient, and equitable distribution of the direct-consumption portion of the mainland quota, as required by section 205(a) of the act.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205(a) of the act, and in accordance with the findings and conclusions heretofore made, it is hereby ordered:

§ 815.1 Allotment of the direct-consumption portion of 1960 mainland sugar quota for Puerto Rico.

(a) *Allotments.* The direct-consumption portion of the 1960 sugar quota for Puerto Rico, amounting to 139,161 short tons, raw value, is hereby allotted as follows:

Allottee:	*Direct-consumption allotment (short tons, raw value)*
Central Aguirre Sugar Co., a trust	6,764
Central Roig Refining Company	21,188
Central San Francisco	1,519
Puerto Rican American Sugar Rfy., Inc	87,516
Western Sugar Refining Co	22,174
All other persons	0
Total	139,161

(b) *Restrictions on marketing.* (1) During the calendar year 1960 each allottee named in paragraph (a) of this section is hereby prohibited from bringing into the continental United States within an allotment established for such allottee, for consumption therein, any direct-consumption sugar from Puerto Rico in excess of the smaller of (i) the allotment therefor established in paragraph (a) of this section, or (ii) the sum of the quantity of sugar produced by the allottee from sugarcane grown in Puerto Rico, and the quantity of sugar produced from Puerto Rican sugarcane which was sugar acquired by the allottee in 1960 for further processing and shipment within the direct-consumption portion of the 1960 mainland quota for Puerto Rico.

(2) During the calendar year 1960 all persons other than the allottees specified in paragraph (a) of this section are hereby prohibited from bringing into the continental United States, for consumption therein, any direct-consumption sugar from Puerto Rico except that acquired from an allottee within the quantity limitations established in subparagraph (1) of this paragraph and that brought in within any unallotted reserve that may be established for "All other persons."

(3) Of the total quantity of direct-consumption sugar allotted in paragraph (a) of this section, 126,033 short tons, raw value, may be filled only by sugar principally of crystalline structure and the balance may be filled by sugar whether or not principally of crystalline structure.

(c) *Notice of maximum marketing capabilities and release of quantities in excess thereof.* Each allottee shall notify the Department no later than October 1, 1960, of the maximum quantity of sugar he will be able to market within any allotment of the direct-consumption portion of the mainland quota during the quota year, and shall release any quantity of sugar in excess of the maximum amount stated on the notice. Such a notice and release should be submitted as provided in Finding (10) accompanying this order.

(d) *Revision of allotments.* The Director of the Sugar Division, Commodity Stabilization Service, U.S. Department of Agriculture, is hereby authorized to revise the allotments established under this order without further notice or hearing to give effect to (1) the substitution of revised estimates or final data for estimates, (2) the allocation, as provided in Finding (11) accompanying this order, of any quantity of sugar released by an allottee and (3) any increase or decrease in the direct-consumption portion of the 1960 mainland quota for Puerto Rico as provided in Finding (9) accompanying this order.

(e) *Transfer of marketing rights under allotments.* The Director of the Sugar Division, Commodity Stabilization Service, of the Department, consistent with the provisions of the Act, may permit a quantity of sugar produced from sugarcane grown in Puerto Rico to be brought into the continental United States for direct-consumption therein by one allottee, or other person, within the allotment or portion thereof established for another allottee upon relinquishment by the latter allottee of an equivalent quantity of his allotment and upon receipt of evidence satisfactory to the Secretary that a merger, consolidation, transfer of sugar-processing facilities, of other action of similar effect upon the allottees or persons involved has occurred.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interprets or applies secs. 205, 209; 61 Stat. 926, 928; 7 U.S.C. 1115, 1119)

Done at Washington, D.C., this 1st day of February 1960.

CLARENCE D. PALMBY,
Associate Administrator, Commodity Stabilization Service.

[F.R. Doc. 60-1155; Filed, Feb. 3, 1960; 8:53 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 29]

FRUIT PRESERVES AND JAMS

Order Denying Amendment of Standard of Identity

On September 23, 1959, a notice of proposed rule making was published in the FEDERAL REGISTER (24 F.R. 7648), setting forth a proposal made by General Foods Corporation, White Plains, New York, to amend the standard of identity for fruit preserves and jams to permit the addition of cherry liqueur and rum as optional ingredients. The notice allowed 60 days for interested persons to submit in writing their views on the proposal.

Upon consideration of the comments presented and other relevant information, it is concluded that it would not promote honesty and fair dealing in the interest of consumers to amend the standard of identity for fruit preserves and jams as proposed.

Therefore, pursuant to the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended; 21 U.S.C. 341, 371) and the authority delegated to the Commissioner of Foods and Drugs by the Secretary of Health, Education, and Welfare (22 F.R. 1045, 23 F.R. 9500): *It is ordered,* That the identity standard for fruit preserves and jams (21 CFR 29.3) be not amended.

Any person who will be adversely affected by the foregoing order may at any time prior to the thirtieth day following the date of publication of this order in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, shall specify with particularity the provisions of the order deemed objectionable and the grounds for the objections, and shall request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

If a public hearing is to be held upon objections to this order, an appropriate notice will be published in the FEDERAL REGISTER.

Dated: January 28, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-1107; Filed, Feb. 3, 1960; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Notice of Proposed Rule Making

The following amendment is designed to prohibit issuances of licenses which would authorize the disposal of radioactive waste materials on privately owned sites by persons engaged in commercial radioactive waste disposal activities.

Notice is hereby given that adoption of the following amendment is under consideration. All interested persons who desire to submit written comments and suggestions relating to the following amendment should send them to the U.S. Atomic Energy Commission, Washington 25, D.C., Attention: Director Division of Licensing and Regulation, within 30 days after publication of this notice in FEDERAL REGISTER.

Section 20.304 is amended by adding the following at the end of the section:

The Commission will not approve any application for license to receive licensed material from other persons for disposal on land not owned by the Federal or State governments.

Dated at Germantown, Md., this 28th day of January 1960.

For the Atomic Energy Commission.

A. R. LUEDECKE,
General Manager.

[F.R. Doc. 60-1094; Filed, Feb. 3, 1960; 8:45 a.m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Classification 95]

NEVADA

Small Tract Classification; Amendment

1. Effective January 25, 1960, Federal Register Document 53-8583 appearing on pages 6412-14 of the issue for October 8, 1953, is revoked as to the following described public lands:

MOUNT DIABLO MERIDIAN, NEVADA

T. 20 S., R. 60 E.
Sec. 22, SE¼SE¼, S½NE¼SE¼, NE¼NE¼SE¼, S½NE¼, E½NE¼NE¼;
Sec. 27, S½S½NW¼, NE¼SE¼NW¼, SE¼NE¼NW¼.

Containing 230 acres.

2. The lands included in this restoration are located approximately four miles northwest of Las Vegas, Nevada. The elevation is approximately 2,500 feet above sea level. The climate is dry. The area receives from 5 to 7 inches of rainfall annually. The topography is nearly level with soils varying from sands to gravel. Caliche is evident over much of the surface.

3. The subject lands have been determined to be appropriated under the United States mining laws by virtue of valid claims having been located on the lands prior to Small Tract Classification. These lands are included in mineral patent application, Nev.-012928, and have been approved for disposal thereunder.

E. J. PALMER,
State Supervisor for Nevada.

JANUARY 28, 1960.

[F.R. Doc. 60-1111; Filed, Feb. 3, 1960; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 10077]

BROWNSVILLE, TEXAS, AND TAMPICO, MEXICO, SUSPENSION CASE

Notice of Prehearing Conference

In the matter of the Board investigation to determine whether Pan American World Airways' certificate insofar as it authorizes service to Brownsville, Texas and Tampico, Mexico should be altered, amended, modified or suspended.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 16, 1960, at 10:00 a.m., e.s.t., in Room 701, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Thomas L. Wrenn.

Dated at Washington, D.C., January 29, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60-1133; Filed, Feb. 3, 1960; 8:49 a.m.]

[Docket 8444]

LAKE CENTRAL AIRLINES, INC. TEMPORARY MAIL RATES

Notice of Postponement of Hearing

In the matter of the temporary rates to be paid to Lake Central Airlines, Inc., for the transportation of mail.

Notice is hereby given pursuant to Federal Aviation Act of 1958, that the hearing in the above-entitled proceeding, now assigned for February 5, 1960, is hereby postponed until February 17, 1960, at 10:00 a.m., e.s.t., in Room 513, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Herbert K. Bryan.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60-1134; Filed, Feb. 3, 1960; 8:50 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

URBAN RENEWAL COMMISSIONER AND HHFA REGIONAL ADMINISTRATORS

Amendment of Delegation of Authority With Respect to Slum Clearance and Urban Renewal Program, Demonstration Grant Program, and Urban Planning Grant Program

The delegation of authority with respect to the slum clearance and urban renewal program, demonstration and urban planning grant programs, effective as of December 23, 1954, as amended,[1] is hereby further amended in the following respects:

1. In paragraph 2, delete all that follows the phrase "urban planning" and insert a period.

2. Amend subparagraph 5(1) to read as follows:

(1) With respect to section 701 urban planning grants, approve applications, make allocations of funds authorizing Federal contracts, suspend or terminate Federal assistance, or make determinations with respect to non-compliances or defaults under contract;.

[1] 20 F.R. 428, published Jan. 19, 1955, as amended at 20 F.R. 4275, June 17, 1955; 21 F.R. 1468, March 7, 1956; 21 F.R. 3038, May 5, 1956; 21 F.R. 5385, July 18, 1956; 21 F.R. 5471, July 20, 1956; 22 F.R. 2887, April 24, 1957; 22 F.R. 4105, June 11, 1957; 23 F.R. 1202, Feb. 26, 1958; 23 F.R. 1611, March 6, 1958; 23 F.R. 4820, June 28, 1958; 23 F.R. 8413, Oct. 30, 1958; 23 F.R. 9078, Nov. 21, 1958; 23 F.R. 9399, Dec. 4, 1958; 24 F.R. 242, Jan. 9, 1959; 24 F.R. 5815, July 21, 1959; 24 F.R. 8451, Oct. 17, 1959; and 24 F.R. 9634, Dec. 2, 1959.

Effective as of the 4th day of February, 1960.

[SEAL] NORMAN P. MASON,
Housing and Home Finance Administrator.

[F.R. Doc. 60-1124; Filed, Feb. 3, 1960; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 13197, 13198; FCC 60M-204]

LAWRENCE W. FELT AND INTERNATIONAL GOOD MUSIC, INC.

Order Continuing Hearing

In re applications of Lawrence W. Felt, Carlsbad, California, Docket No. 13197, File No. BPH-2499; International Good Music, Inc., San Diego, California, Docket No. 13198, File No. BPH-2695; for construction permits.

On the oral request of counsel for applicant International Good Music, Inc., and without objection by counsel for the other parties: *It is ordered,* This 27th day of January 1960, that:

(1) The hearing previously scheduled for February 23, 1960, is further continued to Tuesday, March 8, 1960, at 10 a.m., in the offices of the Commission, Washington, D.C.

(2) The date for exchanging written cases is further extended from January 28 to February 11, 1960.

(3) The date for notice of the witnesses desired for cross-examination is further extended from February 11 to February 25, 1960.

Released: January 29, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1139; Filed, Feb. 3, 1960; 8:51 a.m.]

[Docket No. 12874; FCC 60M-208]

RADIO AMERICAS CORP. (WORA)

Order Scheduling Hearing

In re application of Radio Americas Corporation (WORA), Mayaguez, Puerto Rico, Docket No. 12874, File No. BP-11925; for construction permit.

A hearing conference having been held in the above-entitled matter on January 27, 1960, and it appearing from the record thereof that certain agreements were reached which properly should be formalized by an order;

It is ordered, This 28th day of January 1960 that:

1. Preliminary drafts of all engineering exhibits shall be supplied to the other parties on or before March 14, 1960;

2. Sworn engineering exhibits shall be exchanged by the parties and copies thereof supplied the Commission's

Broadcast Bureau and the Hearing Examiner on March 28, 1960;

3. Notification of witnesses to be called for cross-examination on the said exhibits shall be given on or before April 4, 1960;

It is further ordered, That the hearing in this matter shall commence at 10:00 a.m. on April 12, 1960, in the offices of the Commission, Washington, D.C.

Released: January 29, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1141; Filed, Feb. 3, 1960; 8:51 a.m.]

[Docket No. 13369]

ADOLPH OLSEN

Order To Show Cause

In the matter of Adolph Olsen, c/o Don Butler, Fisherman's Terminal, Seattle 99, Washington, Docket No. 13369; order to show cause why there should not be revoked the license for radio station WB-3221 aboard the vessel "Spawn".

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Official Notice of Violation mailed on September 25, 1959, alleging violation of the Commission's rules on August 27, 1959, as follows:

Section 8.178: Engaging in superfluous or unnecessary radiocommunication.

Section 8.366(b)(2): Failure to establish communication on frequency 2182 kc prior to engaging in communication on the frequency 2638 kc.

Section 8.366(f): Failure to limit exchange of communications between mobile stations on frequency 2638 kc to five minutes.

It further appearing that, the above-named licensee received said official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated October 26, 1959, and sent by Certified Mail—Return Receipt Requested (No. 878808), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing, that receipt of the Commission's letter was acknowledged by the signature of the licensee's agent, Harriet Olsen, on November 9, 1959, to a Post Office Department return receipt; and

It further appearing that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing that, in view of the foregoing, the licensee has repeatedly violated § 1.61 of the Commission's rules;

It is ordered, This 27th day of January 1960, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in respect thereto at a hearing [1] to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this Order by Certified Mail, Return Receipt Requested to the said licensee.

Released: January 29, 1960

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1140; Filed, Feb. 3, 1960; 8:51 a.m.]

[Docket Nos. 13330, 13331; FCC 60M-209]

RADIO ATASCADERO AND CAL-COAST BROADCASTERS

Order Continuing Hearing Conference

In re applications of Jeanette B. Arment, tr/as Radio Atascadero, Atascadero, California, Docket No. 13330, File No. BP-12068; Edward E. Urner and Bryan J. Coleman, d/b as Cal-Coast Broadcasters, Santa Maria, California, Docket No. 13331, File No. BP-12613; for construction permits.

The Hearing Examiner having under consideration a petition, filed by Jeanette B. Arment, tr/as Radio Atascadero on January 28, 1960, requesting continuance of prehearing conference herein from February 1 to February 19, 1960;

It appearing that counsel for Cal-Coast Broadcasters and the Commission's Broadcast Bureau have advised the Hearing Examiner informally that they have no objection to the requested continuance; that good cause has been shown for the continuance; and that the public interest, in the orderly and expeditious dispatch of the Commission's business, requires immediate consideration of the petition;

It further appearing that the Hearing Examiner's hearing schedule does not permit the scheduling of the conference on February 19, 1960, but it may be scheduled for February 25, 1960;

It is ordered, This 28th day of January 1960, that the above petition for continuance is granted to the extent that the prehearing conference presently scheduled herein for February 1, 1960, is continued to February 25, 1960, at 10:00 a.m.

Released: January 29, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1142; Filed, Feb. 3, 1960; 8:51 a.m.]

[Docket No. 13332; FCC 60M-210]

SUBURBAN BROADCASTERS

Order Following Prehearing Conference

In re application of Patrick Henry, David D. Larsen, Steward B. Kett and James B. Glenn, Jr., d/b as Suburban Broadcasters, Elizabeth, New Jersey, Docket No. 13332, File No. BPH-2731; for construction permit.

A prehearing conference in the above proceeding having been held on January 28, 1960, and it appearing that certain agreements of a procedural nature made therein among counsel and approved by the Hearing Examiner should be formalized in an order;

It is ordered, This 29th day of January 1960, as follows:

(1) By February 29, 1960 [1] the applicant will provide a draft copy of its entire direct case in written exhibit form to the other parties to the proceeding for study and analysis.

(2) After the exchange of the draft exhibit or exhibits the respective en-

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[1] Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

[1] The parties actually agreed on February 28th as the date for the exchange but since that date falls on a Sunday the Hearing Examiner is taking the liberty of changing the date to February 29th.

gineering consultants will confer among themselves jointly or severally with a view to reaching agreement as far as practicable on the engineering presentation so that the hearing process may be simplified and expedited by the elimination of unessentials and unnecessary cross-examination, the consultations to be completed by no later than March 14th, 1960;

(3) By March 21, 1960 the applicant's exhibits are to be exchanged among the other parties in final form; [2]

(4) By agreement of counsel, and with approval of the Hearing Examiner, the hearing is to be continued from the date presently scheduled (March 10th) to March 23d, 1960.

It is further ordered, That the hearing heretofore scheduled to commence on March 10, 1960, is hereby continued to March 23, 1960, at 10:00 a.m. in the offices of the Commission at Washington, D.C.

Released: January 29, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1146; Filed, Feb. 3, 1960; 8:52 a.m.]

[Docket No. 13345; FCC 60M-206]

SERVICE BROADCASTING CO.

Order Continuing Hearing

In re application of Service Broadcasting Company, Concord, California, Docket No. 13345, File No. BP-12184; for construction permit.

The Hearing Examiner having under consideration agreement of parties participating at prehearing conference on January 27, 1960, regarding date for hearing;

It is ordered, This 27th day of January 1960, that the hearing now scheduled for March 31, 1960, is continued to May 2, 1960, at 10:00 a.m.

Released: January 29, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1143; Filed, Feb. 3, 1960; 8:51 a.m.]

[Docket No. 13372]

JAMES N. SKAGGS

Order To Show Cause

In the matter of James N. Skaggs db/as ABC Cab Co., Leavenworth, Kansas, Docket No. 13372; order to show cause why there should not be revoked the license for radio station KAL-317 in the taxicab radio service.

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Official Notice of Violation mailed October 15, 1959, alleging failure to maintain records of transmitter measurements required by § 16.108 of the Commission's rules, in violation of § 16.160(a) of the Commission's rules, on October 12, 1959.

It further appearing that, the above-named licensee received said Official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated November 17, 1959, and sent by Certified Mail, Return Receipt Requested (No. 477182), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing that receipt of the Commission's letter was acknowledged by the signature of the licensee's agent, Mae Jennings, on November 18, 1959, to a Post Office Department return receipt; and

It further appearing that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing that, in view of the foregoing, the licensee has repeatedly violated § 1.61 of the Commission's rules;

It is ordered, This 27th day of January, 1960, pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in respect thereto at a hearing [1] to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by Certified Mail, Return Receipt Requested to the said licensee.

Released: January 29, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1144; Filed, Feb. 3, 1960; 8:51 a.m.]

[Docket No. 11314; FCC 60M-207]

SPARTAN RADIOCASTING CO. (WSPA-TV)

Order Continuing Hearing

In re application of The Spartan Radiocasting Company (WSPA-TV), Spartanburg, South Carolina, Docket No. 11314, File No. BMPCT-2042; for modification of construction permit.

It is ordered, This 28th day of January 1960, due to the illness of counsel for the applicant and with the consent of all interested parties, that hearing in the above-entitled proceeding, which, by order of January 19, 1960, was scheduled to commence February 3, 1960, is continued to a date to be later specified.

Released: January 29, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1145; Filed, Feb. 3, 1960; 8:52 a.m.]

[Docket No. 13370]

NICK TILIAKOS

Order To Show Cause

In the matter of Nick Tiliakos, P.O. Box 474, Fernandina Beach, Florida, Docket No. 13370; order to show cause why there should not be revoked the license for radio station WE-6325 aboard the vessel "Michael T".

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that pursuant to § 1.61 of the Commission's rules, written notice

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[2] Although the matter was inadvertently omitted from the discussions at the prehearing conference the Hearing Examiner would appreciate receiving a copy of the applicant's exhibit in final form by the March 21st exchange date.

[1] Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

of violation of the Commission's rules was served upon the above-named licensee as follows:

Official Notice of Violation mailed on October 6, 1959, alleging that on September 25, 1959, the captioned radio station was observed in violation of the Commission's rules as follows:

Section 8.367(a): Failure to maintain copy of Part 8 of the Commission's rules aboard the vessel "Michael T".

Section 8.368(a): Failure to maintain accurate radiotelephone station log.

It further appearing that, the above-named licensee received said Official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated November 10, 1959, and sent by Certified Mail, Return Receipt Requested (No. 121734), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing that receipt of the Commission's letter was acknowledged by the signature of the licensee's agent, Mrs. Howard, on November 12, 1959, to a Post Office Department return receipt; and

It further appearing, that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing, that, in view of the foregoing, the licensee has repeatedly violated § 1.61 of the Commission's rules;

It is ordered, This 27th day of January, 1960, pursuant to section 312(a)(4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b)(8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in respect thereto at a hearing [1] to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by Certified Mail, Return Receipt Requested to the said licensee.

Released: January 29, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1147; Filed, Feb. 3, 1960; 8:52 a.m.]

[1] Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

[Docket No. 13371]

SAM P. TRINGALI

Order To Show Cause

In the matter of Sam P. Tringali, Fernandina Beach, Florida, Docket No. 13371; order to show cause why there should not be revoked the license for radio station WD-3222 aboard the vessel "Saint Pat".

There being under consideration the matter of certain alleged violations of the Commission's rules in connection with the operation of the above-captioned station;

It appearing that, pursuant to § 1.61 of the Commission's rules, written notice of violation of the Commission's rules was served upon the above-named licensee as follows:

Official Notice of Violation mailed on October 6, 1959, alleging violations of the Commission's rules on September 28, 1959, as follows:

Section 8.109—Failure to maintain record of results of carrier frequency measurements required to be made by this section of rules.

Section 8.367—Failure to maintain copy of Part 8 of the Commission's rules aboard vessel "Saint Pat."

Section 8.368—Failure to maintain accurate radiotelephone station log.

It further appearing that the above-named licensee received said Official notice but did not make satisfactory reply thereto, whereupon the Commission, by letter dated November 10, 1959, and sent by Certified Mail, Return Receipt Requested (No. 121736), brought this matter to the attention of the licensee and requested that such licensee respond to the Commission's letter within fifteen days from the date of its receipt stating the measures which had been taken, or were being taken, in order to bring the operation of the radio station into compliance with the Commission's rules, and warning the licensee that his failure to respond to such letter might result in the institution of proceedings for the revocation of the radio station license; and

It further appearing that receipt of the Commission's letter was acknowledged by the signature of the licensee's agent, Tony Tringali, on November 12, 1959, to a Post Office Department return receipt; and

It further appearing that, although more than fifteen days have elapsed since the licensee's receipt of the Commission's letter, no response was made thereto; and

It further appearing that, in view of the foregoing, the licensee has repeatedly violated § 1.61 of the Commission's rules;

It is ordered, This 27th day of January 1960, pursuant to section 312 (a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that the said licensee show cause why the license for the above-captioned Radio Station should not be revoked and appear and give evidence in respect thereto at a hearing [1] to be held at a time and place to be specified by subsequent order; and

It is further ordered, That the Secretary send a copy of this order by Certified Mail—Return Receipt Requested to the said licensee.

Released: January 29, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-1148; Filed, Feb. 3, 1960; 8:52 a.m.]

FEDERAL POWER COMMISSION

[Project 1971]

IDAHO POWER CO.

Notice of Land Withdrawal; Idaho and Oregon

JANUARY 29, 1960.

In accordance with Article 31 of the license issued August 8, 1955, for this project, the Idaho Power Company (Licensee) on November 4, 1959, completed its filing of exhibits for the Brownlee H. E. Development.

Therefore, in accordance with the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the hereinafter described land, insofar as title thereto remains in the United States are, from November 4, 1959, the date of filing of exhibits, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

BOISE MERIDIAN, IDAHO

T. 16 N., R. 5 W.,
Sec. 6: Lot 2.
T. 17 N., R. 5 W.,
Sec. 1: W½SW¼SW¼;
Sec. 11: Lot 4, N½NW¼SE¼, SW¼NW¼SE¼, NW¼SW¼SE¼, NW¼NE¼SE¼;
Sec. 14: Lots 1, 2, W½NE¼NW¼, SW¼NE¼NE¼NW¼, NW¼SE¼NE¼NW¼;
Sec. 23: W½SW¼SE¼SW¼;
Sec. 27: Lots 1, 2, 3, W½W½NW¼NE¼;
Sec. 28: Lots 2, 3, 4, W½NE¼SE¼SE¼, NW¼SE¼SE¼;
Sec. 29: Lot 1;

Sec. 31: Lot 1;
Sec. 32: Lots 1, 2, 5, N½NE¼SW¼;
Sec. 33: NW¼NE¼NE¼NW¼, NW¼NE¼NW¼, N½SW¼NE¼NW¼, N½NW¼NW¼, N½SW¼NW¼NW¼, NW¼SE¼NW¼NW¼.

T. 11 N., R. 6 W.,
Sec. 18: SE¼SE¼ Lot 4, S½SW¼SE¼SW¼, SW¼SE¼SE¼SW¼;
Sec. 19: Lots 3, 4.

T. 14 N., R. 6 W.,
Sec. 6: NE¼NE¼ Lot 4, W½NE¼ Lot 4, E½NW¼ Lot 4, W½W½ Lot 4, W½W½ Lot 5.

T. 15 N., R. 6 W.,
Sec. 4: NW¼NE¼ Lot 4, NW¼ Lot 4, W½SW¼ Lot 4;
Sec. 5: Lot 1, N½ Lot 2, N½S½ Lot 2, S½SW¼ Lot 2, N½ Lot 3, NW¼SE¼ Lot 3, SW¼ Lot 3, W½ Lot 4, W½E½ Lot 4, N½NW¼NW¼SE¼, N½N½SE¼NE¼, SW¼NW¼SE¼NE¼, SW¼SE¼ Lot 2;
Sec. 8: W½ Lot 1, W½E½ Lot 1, Lot 2, W½ Lot 3, Lot 4, SW¼NW¼SW¼NE¼, NW¼SW¼SW¼NE¼, S½SW¼SW¼NE¼, W½W½SE¼SW¼, N½NW¼NW¼SE¼;
Sec. 17: Lots 1, 2, W½NE¼ Lot 3, E½NW¼ Lot 3, W½W½ Lot 3, NE¼SW¼ Lot 3, NW¼SE¼ Lot 3, W½NW¼NE¼NW¼, W½NW¼SW¼SW¼;
Sec. 18: Lot 1, E½NE¼ Lot 2, W½E½ Lot 2, W½ Lot 2, NE¼SE¼ Lot 2;
Sec. 19: E½NW¼ Lot 1, W½W½ Lot 1, NE¼SW¼ Lot 1, NE¼NE¼ Lot 2, W½NE¼ Lot 2, E½NW¼ Lot 2, NE¼SW¼ Lot 2, W½W½ Lot 2, Lot 3, N½NE¼ Lot 4, W½ Lot 4;
Sec. 30: Lot 1, N½ Lot 2, N½S½ Lot 2, S½SW¼ Lot 2, SW¼SE¼ Lot 2, W½ Lot 3, W½E½ Lot 3, NW¼ Lot 4, W½SW¼ Lot 4, W½NW¼NE¼NW¼;
Sec. 31: W½W½ Lot 1, SE¼SW¼ Lot 1, NW¼ Lot 2, S½SW¼ Lot 4, SE¼ Lot 4.

T. 16 N., R. 6 W.,
Sec. 1: Lots 2, 4, W½E½SE¼SW¼, E½NW¼SE¼SW¼, NW¼NW¼SE¼SW¼, NE¼SW¼SE¼SW¼, NW¼NW¼SW¼SW¼;
Sec. 2: Lot 1, N½NE¼SE¼SE¼, NW¼SE¼SE¼;
Sec. 10: Lots 3, 4;
Sec. 15: NW¼NE¼NW¼NE¼, N½NW¼NW¼NE¼, SW¼NW¼NW¼NE¼, W½ Lot 5, W½E½ Lot 5;
Sec. 21: Lots 1, 2;
Sec. 22: W½NE¼ Lot 1, E½NW¼ Lot 1, W½W½ Lot 1, NE¼SW¼ Lot 1, W½W½ SW¼NW¼, E½SW¼SW¼NW¼, NW¼NW¼SW¼, NE¼SW¼NW¼SW¼, W½SW¼NW¼SW¼, W½NW¼SW¼SW¼;
Sec. 28: NE¼NE¼ Lot 1, W½NE¼ Lot 1, NW¼ Lot 1, N½SW¼ Lot 1, SW¼SW¼ Lot 1, Lots 2, 3, N½N½ Lot 6, S½ NW¼ Lot 6, SW¼ Lot 6;
Sec. 33: Lots 1, 2, 3, 4, W½NW¼NE¼NW¼, SE¼SW¼NE¼NW¼, S½SE¼NE¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, NW¼SE¼SE¼NW¼, NW¼NE¼SW¼NE¼, N½NW¼SW¼NE¼, SW¼NW¼SW¼NE¼, W½NW¼NE¼SW¼.

T. 11 N., R. 7 W.,
Sec. 4: NW¼ Lot 4, N½SW¼ Lot 4, SW¼SW¼ Lot 4;
Sec. 8: NW¼ Lot 2, N½SW¼ Lot 2, Lot 3, W½ Lot 5, W½ Lot 6;
Sec. 17: W½NW¼NW¼;
Sec. 21: SW¼ Lot 3;
Sec. 24: NE¼NE¼ Lot 1, S½NE¼ Lot 1, S½NW¼ Lot 1, S½ Lot 1, SE¼ Lot 2, S½SW¼ Lot 2, SE¼NE¼ Lot 3, SE¼ Lot 3, E½E½ Lot 4, Lot 5;
Sec. 25: Lot 1;
Sec. 28: NW¼NE¼ Lot 2, W½ Lot 2, S½NE¼ Lot 2, N½SE¼ Lot 2.

T. 12 N., R. 7 W.,
Sec. 6: Lots 2, 3, NW¼ Lot 4, W½SW¼ Lot 4, Lots 5, 6, NW¼NE¼SE¼SW¼, NE¼NW¼SE¼SW¼, W½NW¼SE¼SW¼, NW¼SW¼SE¼SW¼;
Sec. 7: NW¼NW¼ Lot 1;
Sec. 18: W½W½ Lot 1, E½SW¼ Lot 1, NW¼NE¼ Lot 4, S½NE¼ Lot 4, W½ Lot 4, SE¼ Lot 4, SW¼SW¼SW¼SE¼;
Sec. 28: S½NW¼ Lot 1, SW¼ Lot 1;
Sec. 32: Lot 1;
Sec. 33: W½NE¼ Lot 3, E½NW¼ Lot 3, W½W½ Lot 3, NE¼SW¼ Lot 3, NW¼SE¼ Lot 3, E½NE¼ Lot 4, W½E½ Lot 4, W½ Lot 4.

T. 13 N., R. 7 W.,
Sec. 4: W½E½ Lot 4, W½ Lot 4, W½NW¼SW¼NW¼, NW¼SW¼SW¼NW¼;
Sec. 5: N½ Lot 1, SW¼ Lot 1, W½SE¼ Lot 1, NE¼SE¼ Lot 1, W½NE¼ Lot 2, W½ Lot 2, NE¼ Lot 3, E½NW¼ Lot 3, W½W½ Lot 3, NE¼SW¼ Lot 3, NW¼SE¼ Lot 3, Lot 4;
Sec. 6: Lot 1;
Sec. 7: Lot 1, Lee and Old Grant mineral locations;
Sec. 17: Lots 1, 2, SW¼NE¼, S½NW¼;
Sec. 20: Lots 1, 2;
Sec. 29: NE¼NE¼ Lot 3, W½E½ Lot 3, W½ Lot 3, W½E½ Lot 4, W½ Lot 4;
Sec. 32: NW¼NW¼NW¼SW¼.

T. 14 N., R. 7 W.,
Sec. 13: NE¼NW¼SW¼SW¼, W½W½SW¼SW¼;
Sec. 14: Lots 1, 3;
Sec. 23: Lot 1, NE¼NE¼ Lot 2, W½E½ Lot 2, W½ Lot 2, NW¼NW¼NE¼SE¼, SW¼SW¼SE¼SE¼;
Sec. 26: N½N½ Lot 2, NW¼NW¼NE¼NE¼;
Sec. 27: N½ Lot 1, NE¼SW¼SW¼, NW¼SW¼NE¼SE¼, S½SW¼NE¼SE¼;
Sec. 28: NE¼ Lot 2, E½NW¼ Lot 2, NE¼SW¼ Lot 2, W½W½ Lot 2;
Sec. 33: Lots 1, 2, W½E½ Lot 3, W½ Lot 3, W½E½ Lot 4, W½ Lot 4.

T. 15 N., R. 7 W.,
Sec. 25: Lot 1.

WILLAMETTE MERIDIAN, OREGON

T. 11 S., R. 45 E.,
Sec. 36: Lot 3, W½NW¼ Lot 4, E½W½ Lot 4, E½ Lot 4, NE¼NE¼SW¼NE¼.

T. 12 S., R. 45 E.,
Sec. 1: E½E½ Lot 1, E½W½ Lot 6, E½ Lot 6, E½SE¼SW¼SE¼;
Sec. 11: SE¼SE¼SE¼;
Sec. 12: SE¼NW¼SW¼;
Sec. 14: SE¼SW¼NW¼NE¼, SE¼NW¼NE¼, NW¼SW¼NE¼NW¼, S½SW¼NE¼NW¼, SE¼NE¼NW¼NW¼, NE¼SE¼NW¼NW¼;
Sec. 33: Lot 1.

T. 13 S., R. 45 E.,
Sec. 9: Lots 1, 2, 3, 4, E½NE¼NW¼NW¼;
Sec. 16: Lots 1, 2, 3, 4;
Sec. 21: E½ Lot 1, E½W½ Lot 1, E½ Lot 2, E½W½ Lot 2, SW¼SW¼ Lot 2, Lot 3, SE¼SE¼NW¼SW¼;
Sec. 29: Lot 4;
Sec. 32: Lot 1, SE¼SW¼ Lot 2, SE¼ Lot 2, Lots 3, 4, 5.

T. 14 S., R. 45 E.,
Sec. 5: E½ Lot 1;
Sec. 7: SE¼SE¼SE¼;
Sec. 8: Lot 1, E½ Lot 2, S½NE¼SW¼SW¼, NE¼SW¼SW¼SW¼, S½SW¼SW¼SW¼, N½SE¼SW¼SW¼, NE¼SE¼SW¼, NE¼NW¼SE¼SW¼, S½NW¼SE¼SW¼, N½SW¼SE¼SW¼, NE¼NE¼NE¼NW¼;
Sec. 9: N½ Lot 2, NE¼SW¼ Lot 2, SE¼ Lot 2;
Sec. 15: N½ Lot 1, E½SW¼ Lot 1, E½ Lot 1, NW¼ Lot 2, E½ Lot 2;
Sec. 16: N½ Lot 1, SE¼ Lot 1, N½ Lot 2, SE¼ Lot 2;
Sec. 17: N½NW¼NW¼NW¼, SW¼NW¼NW¼;
Sec. 22: NE¼NE¼ Lot 1, Lot 2, E½ Lot 3, E½NW¼ Lot 3, NW¼NW¼ Lot 3, NE¼SW¼ Lot 3, E½E½ Lot 4, E½E½ Lot 5, SW¼SE¼ Lot 5;
Sec. 27: Lot 1, SE¼ Lot 2.

T. 15 S., R. 45 E.,
Sec. 10: Lot 1, NW¼ Lot 2, E½SW¼ Lot 2, SE¼ Lot 2;
Sec. 15: E½NE¼ Lot 1, N½ Lot 2, N½S½ Lot 2, SE¼SE¼ Lot 2;
Sec. 24: N½ Lot 2, N½S½ Lot 2, Lot 3, N½NE¼ Lot 4, N½ Lot 5, N½S½ Lot 5.

T. 9 S., R. 46 E.,
Sec. 20: SW¼SW¼SE¼NW¼, E½SE¼NW¼SW¼;
Sec. 21: N½NW¼NE¼, N½S½NW¼NE¼, NE¼NE¼SE¼NE¼, NE¼NE¼NW¼, S½NE¼NW¼, S½NW¼NE¼NW¼, S½SW¼NW¼NW¼, NE¼NE¼SE¼NW¼, W½E½SE¼NW¼, W½SE¼NW¼, NW¼NE¼NE¼SW¼, N½NW¼NE¼SW¼, SW¼NW¼NE¼SW¼;
Sec. 22: NE¼SW¼NW¼, W½NW¼SW¼NW¼, NW¼NW¼SW¼NW¼, E½SE¼SW¼NW¼;
Sec. 23: W½SW¼NW¼, W½NE¼NW¼SW¼, SE¼NE¼NW¼SW¼, W½NW¼SW¼, SE¼NW¼SW¼, SW¼NW¼NE¼SW¼, NW¼SW¼NE¼SW¼, S½SW¼NE¼SW¼, SW¼SE¼NE¼SW¼;
Sec. 25: W½SW¼NE¼NE¼, E½E½SW¼NE¼, SE¼NE¼SE¼NE¼, NW¼NW¼SE¼NE¼, S½NW¼SE¼NE¼, S½SE¼NE¼, SE¼SE¼NW¼SW¼;
Sec. 26: N¼SW¼SE¼, SW¼SW¼SE¼, W½SE¼SW¼SE¼, S½NE¼SE¼SE¼, SE¼NW¼SE¼SE¼, E½SW¼SE¼SE¼, SE¼SE¼SE¼;
Sec. 35: Lots 1, 2, 3, 4, 5, E½SW¼.

T. 10 S., R. 46 E.,
Sec. 2: Lot 1, N½NE¼ Lot 2, NE¼NW¼ Lot 2, S½N½ Lot 2, S½ Lot 2, Lot 3;
Sec. 3: E½ Lot 1, E½SW¼ Lot 1, E½ Lot 5, E½W½ Lot 5, E½ Lot 6, E½W½ Lot 6, E½ Lot 7, ½W½ Lot 7,
Sec. 10: E½ Lot 1, E½W½ Lot 1, SW¼NW¼ Lot 1, W½SW¼ Lot 1, Lots 2, 3, 4, SE¼NE¼SW¼NE¼, E½SE¼SW¼NE¼, E½E½NW¼SE¼, E½SW¼SE¼, SE¼NW¼SW¼SE¼, NE¼SW¼SW¼SE¼, S½SW¼SW¼SE¼;
Sec. 15: Lot 1, S½NE¼ Lot 2, E½SW¼ Lot 2, SW¼SW¼ Lot 2, SE¼ Lot 2, Lots 3, 4, 5, NE¼SW¼NW¼, SE¼NW¼SW¼NW¼, NE¼SW¼SW¼NW¼, N½SE¼SW¼NW¼, S½S½SW¼NW¼;
Sec. 21: NE¼ Lot 1, NE¼SW¼ Lot 1, N½SE¼ Lot 1, S½S½ Lot 1, N½N½NE¼NE¼, SE¼NW¼NE¼NE¼, E½SW¼NE¼NE¼, S½NE¼NE¼NE¼, SE¼NE¼NE¼, NE¼SE¼NE¼, NE¼NW¼SE¼NE¼, E½SE¼SE¼NE¼, E½E½NE¼SE¼;
Sec. 22: Lots 1, 2, 3, 4;
Sec. 28: Lot 1, NE¼NE¼ Lot 2, S½NE¼ Lot 2, SE¼NW¼ Lot 2, S½ Lot 2, Lot 3, N½NE¼ Lot 4, S½N½ Lot 4, S½ Lot 4, Lots 5, 6, 7, SE¼SE¼NE¼NW¼, SE¼SW¼NW¼;
Sec. 29: SE¼SE¼SE¼;
Sec. 32: E½E½NE¼NE¼, E½E½SE¼NE¼, E½NE¼NE¼SE¼, SW¼NE¼NE¼SE¼, SE¼SE¼SE¼;
Sec. 33: Lots 1, 2, N½ Lot 3.

T. 11 S., R. 46 E.,
Sec. 4: Lots 1, 2;
Sec. 5: E½SE¼ Lot 1, NE¼NE¼SE¼NE¼, S½NE¼SE¼NE¼, SE¼SE¼NE¼;
Sec. 8: Lot 3, NE¼SE¼NE¼NW¼, S½SE¼NE¼NW¼;
Sec. 17: Lots 3, 4;
Sec. 18: N½NE¼NE¼SE¼, SE¼NE¼NE¼SE¼, NE¼SE¼NE¼SE¼, S½SE¼NE¼SE¼, NE¼NE¼SE¼SE¼, S½NE¼SE¼SE¼, SE¼SE¼SE¼;
Sec. 20: Lot 1;
Sec. 30: Lot 7.

T. 15 S., R. 46 E.,
Sec. 18: Lot 1, N½ Lot 2, Lot 3;
Sec. 19: NW¼ Lot 1, N½ Lot 4, N½S½ Lot 4.

T. 8 S., R. 47 E.,
Sec. 25: E½ Lot 8, Lots 9, 15, 16;
Sec. 35: SE¼SE¼SE¼SE¼.

T. 9 S., R. 47 E.,
Sec. 1: Lot 1;
Sec. 2: Lots 1, 2, 3, 4, SE¼NE¼SW¼NE¼, SW¼SE¼SW¼NE¼, E½SE¼SW¼NE¼, E½NE¼SW¼, E½W½NE¼SW¼, E½E½SW¼SW¼;
Sec. 10: E½SE¼NE¼NE¼;
Sec. 11: Lots 1, 2, 3, 4, NE¼SW¼SW¼, E½SE¼SW¼SW¼;
Sec. 15: Lot 2, NE¼SE¼NE¼NE¼, S½S½NE¼NE¼;
Sec. 16: NW¼NW¼ Lot 1, S½N½ Lot 1, S½ Lot 1, SW¼SE¼;
Sec. 20: E½NE¼SE¼NE¼, NE¼SE¼SE¼NE¼, S½SE¼SE¼NE¼, SE¼SE¼NE¼SW¼, S½SE¼SW¼SW¼, NE¼NE¼SE¼SW¼, NE¼SE¼SE¼SW¼, S½S½SE¼SW¼, SE¼NE¼NW¼SE¼, E½SW¼NW¼SE¼, SW¼SW¼NW¼SE¼, SE¼NW¼SE¼;
Sec. 21: Lots 1, 2, 3, E½E½NW¼NW¼, SW¼SE¼NW¼NW¼;
Sec. 30: S½ Lot 4, Lot 5.
T. 8 S., R. 48 E.,
Sec. 19: Lot 6;
Sec. 30: Lots 1, 2, 3.

The area of United States land reserved, pursuant to the filing of these exhibits, is approximately 6,363.10 acres of which approximately 3,369.11 acres are within the State of Oregon and approximately 2,993.99 acres are in the State of Idaho. All of the project land in Oregon except approximately 79.23 acres and all in Idaho except approximately 176.79 acres have been heretofore reserved for power purposes under prior withdrawal for this project (No. 1971) Power Site Reserve No. 77 or Power Site Classifications Nos. 420 or 421.

Copies of project maps, Exhibit J, sheet 1 (F.P.C. No. 1971–103) filed June 30, 1959, Exhibits K, sheets 1 to 3 inclusive (F.P.C. Nos. 1971–71 to 73 inclusive) filed November 14, 1958, and Exhibits K, sheets 4 to 28 inclusive (F.P.C. Nos. 1971–119 to 143 inclusive) filed November 4, 1959, have been transmitted to Bureau of Land Management, Geological Survey, and Bureau of Reclamation.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60–1100; Filed, Feb. 3, 1960; 8:53 a.m.]

[Docket No. G–19722]

HUSKY OIL CO.

Order Permitting Superseding Rate Filing, and Providing for Hearing on and Suspension of Proposed Change in Rate

JANUARY 28, 1960.

Husky Oil Company (Husky) on December 29, 1959, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Notice of change dated: December 24, 1959.
Purchaser: El Paso Natural Gas Company.
Producing area: Langlie Mattix Fld., Lea Co., New Mexico.
Rate schedule designation: Supplement No. 6 to Husky's FPC Gas Rate Schedule No. 3.
Effective date: February 1, 1960 (stated effective date is the date requested by Husky).
Rate in effect: [1] 10.5 cents per Mcf.[2]
Proposed increased rate: 15.5599 cents per Mcf.[2]

Husky requests that this filing supersede a prior proposed increased rate contained in Supplement No. 5 to Husky's FPC Gas Rate Schedule No. 3. That supplement, among others, was suspended until April 1, 1960, by Commission order issued October 22, 1959, in this proceeding. Because Supplement No. 5 is now being superseded by Supplement No. 6 and, therefore, will never become effective, this proceeding will henceforth be concerned with Supplement No. 6 to Husky's FPC Gas Rate Schedule No. 3.

In support of the proposed renegotiated rate, Husky states, inter alia., that the increased price will enable the buyer to stabilize prices in the Permian Basin area through elimination of the "favored-nations" provisions of gas sales contracts.

The increased rate and charge so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Permission should be granted for the filing of Supplement No. 6 to Husky's FPC Gas Rate Schedule No. 3 to supersede Supplement No. 5 to Husky's FPC Gas Rate Schedule No. 3.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rate contained in Supplement No. 6 to Husky's FPC Gas Rate Schedule No. 3 and that such supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Permission is hereby granted for the filing of Supplement No. 6 to Husky's FPC Gas Rate Schedule No. 3 to supersede Supplement No. 5 to Husky's FPC Gas Rate Schedule No. 3.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 6 to Husky's FPC Gas Rate Schedule No. 3.

(C) Pending such hearing and decision thereon, Supplement No. 6 to Husky's FPC Gas Rate Schedule No. 3, is hereby suspended and the use thereof deferred until July 1, 1960, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(E) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60–1101; Filed, Feb. 3, 1960; 8:53 a.m.]

[1] Rate in effect subject to refund in Docket No. G–15312.
[2] Pressure base is 14.65 psia.

[Docket No. G–18892]

NORTHERN NATURAL GAS CO.

Notice of Application and Date of Hearing

JANUARY 28, 1960.

Take notice that on July 2, 1959, supplemented on August 25, 1959 and September 29, 1959, Northern Natural Gas Company (Northern) filed in Docket No. G–18892 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities to develop as a storage field the essentially depleted Otis Field in Barton and Rush Counties, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern proposes to acquire the storage rights and oil and gas leases and agreements whereby the rights to natural gas and oil production are given to it on the storage area of approximately 26,000 acres. Northern proposes to construct approximately 36.4 miles of 6-inch diameter pipeline as a gathering system in the field, 36.7 miles of 30-inch diameter transmission pipeline, a 350,000 Mcf per day capacity dehydration plant and 7,000 compressor horsepower.

Northern proposes to inject gas into the storage field during the months from April to November, utilizing, at first, the existing 18-inch pipeline interconnecting the Bushton compressor station with Otis Field. Thereafter, following the construction of the 30-inch transmission pipeline, additional gas at higher compression would be injected into Otis Field. During the first three heating seasons, from November through April, prior to reaching the maximum inventory of the field of 182 billion cubic feet, small scale testing operations would be carried out. Northern proposes to have the field ready for operation in November 1962 when large scale withdrawals would begin at constant daily rates of 245,000 Mcf per day for approximately 160 days. By November 1963, Northern proposes to have filled the reservoir to its capacity of 182 billion cubic feet. It proposes then to withdraw gas during the heating seasons at a constant rate of 350,000 Mcf per day, replenishing this gas by injecting gas into the field during the months from April to November.

The total cost of the project is estimated to be $42,439,100, which would be

financed by the issuance of $25,000,000 of sinking fund debentures and $10,000,000 preferred stock and, to the extent required, the remainder from funds generated by company operation. Pending the obtaining of permanent financing, short-term borrowings would be arranged with commercial banks.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on February 29, 1960, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 19, 1960.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-1102; Filed, Feb. 3, 1960; 8:54 a.m.]

[Docket No. G-19952]

RODMAN, LATE AND NOEL

Order Providing for Hearing on and Suspension of Proposed Change in Rate

JANUARY 28, 1960.

On December 21, 1959, Rodman, Late and Noel (Respondent) filed a proposed change to its FPC Gas Rate Schedule No. 1 for sales of natural gas subject to the jurisdiction of the Commission. By order issued January 15, 1960, in this docket, the proposed change, Supplement No. 5 to the Respondent's FPC Gas Rate Schedule No. 1, was suspended until June 21, 1960 and thereafter until made effective in the manner prescribed by the Natural Gas Act.

On January 6, 1960, Respondent tendered a supplemental filing proposing to add the interest of F. M. Late to the above-designated, recently filed notice of change in rate. The proposed change is designated as follows:

Notice of change dated: January 5, 1960.
Purchaser: El Paso Natural Gas Company.
Producing area: Spraberry Fld., Reagan Co., Texas.
Rate schedule designation: Supplement No. 1 to Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 1.
Effective date: February 6, 1960 (stated effective date is the first day after expiration of the required thirty days notice).
Proposed rate: 17.2295 cents per Mcf.[1]

Since the proposed change in rate covering the other interests in Respondent's FPC Gas Rate Schedule No. 1 was suspended until June 21, 1960, and since Supplement No. 1 to Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 1 covering the interest of F. M. Late may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful, said Supplement No. 1 to Supplement No. 5 should be suspended until June 21, 1960, and thereafter until it is made effective in the manner prescribed by the Natural Gas Act.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change and that Supplement No. 1 to Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 1 to Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 1.

(B) Pending hearing and decision thereon, Supplement No. 1 to Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 1 is suspended and the use thereof deferred until June 21, 1960, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 or 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-1103; Filed, Feb. 3, 1960; 8:54 a.m.]

[Docket No. G-20426 etc.]

WARREN PETROLEUM CORP. AND WOODS PETROLEUM CORP.

Correction

JANUARY 27, 1960.

In the matters of Warren Petroleum Corporation (Operator), et al., Docket No. G-20426, et al.; Woods Petroleum Corporation (Operator), et al., Docket No. G-20437.

In the order for hearings and suspending proposed changes in rates, issued December 22, 1959, and published in the FEDERAL REGISTER on January 1, 1960 (25 F.R.; p. 28) change Woods Petroleum Corporation (Operator), et al., "Supplement No. 1" to "Supplement No. 2."

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-1104; Filed, Feb. 3, 1960; 8:54 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 259]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 1, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62666. By order of January 28, 1960, the Transfer Board approved the transfer to Reliable Delivery Service, Inc., Los Angeles, Calif., of Certificates Nos. MC 109216 and MC 109216 Sub 1, issued March 23, 1951 and June 25, 1953, respectively, to Babe Talsky, doing business as Reliable Delivery Service, Los Angeles, Calif., authorizing the transportation of: Non-alcoholic beverages and waste paper materials, from Vernon, Calif., to Los Angeles Harbor and Long Beach, Calif.; fibre boxes, from South Gate, Calif., to Los Angeles Harbor and Long Beach, Calif.; general commodities, excluding household goods, commodities in bulk, and other specified commodities, between Los Angeles, Calif., on the one hand, and, on the other, Los Angeles Harbor and Long Beach, Calif.; and pots and pans, from Vernon, Calif., to the Los Angeles Harbor, Calif., Commercial Zone, restricted to traffic moving to the territories or possessions of the United States. Donald Murchison, 211 South Beverly Drive, Beverly Hills, Calif., for applicants.

No. MC-FC 62737. By order of January 28, 1960, the Transfer Board approved the transfer to Dobear Trucking Corp., New Milford, New Jersey, of the operating rights in Permits Nos. MC 46005, MC 46005 Sub 1, MC 46005 Sub 3, MC 46005 Sub 4, MC 46005 Sub 6, and MC 46005 Sub 7, and Interim Permits Nos. MC 46005 Sub 8 and MC 46005 Sub 10, issued by the Commission July 5, 1941, September 12, 1942, June 4, 1948, December 20, 1948, June 16, 1954, October 27, 1955, March 11, 1958, and June 3, 1959, respectively, to Burg Trucking Corp., New York, New York, authorizing the transportation, over irregular routes, of

[1] Pressure Base is 14.65 psia.

meats, meat products, and poultry, fresh meats, such commodities, as are classified as meats, meat products, and meat by-products, from and to points in Connecticut, Maryland, New Jersey, New York, and Pennsylvania. The Transfer Board also approved the addition of transferee as respondent in Docket No. MC 46005 Sub 9. S. Harrison Kahn, 1110 Investment Building, Washington 5, D.C., for applicants.

No. MC–FC 62834. By order of January 28, 1960, the Transfer Board approved the transfer to Michael P. Parzanese, Reading, Pa., of the operating rights of Norman W. Balthaser, doing business as N. W. Balthaser, Hamburg, Pa., in Certificate No. MC 21547, issued October 8, 1953, authorizing the transportation, over irregular routes, of lumber, fertilizer, feed, agricultural pulverized limestone, and brick, to and from specified points in Pennsylvania, New Jersey, Delaware, Maryland, and New York. John W. Dry, 541 Penn Street, Reading, Pa., for applicants.

No. MC–FC 62863. By order of January 29, 1960, the Transfer Board approved the transfer to Goldthwait's Bus Line, Inc., Biddeford, Maine, of Certificate in No. MC 95972, issued June 21, 1949, to Fernand M. X. Cote and Charles R. W. Cote, a partnership, doing business as Seal Rock Orange-Crush Bottling Company, Saco, Maine, authorizing the transportation of: Passengers and their baggage, restricted to traffic originating at the points indicated, in charter operations, over irregular routes, from Biddeford and Saco, Maine, to Manchester, Nashua, Hudson, Dover, and Portsmouth, N.H., and Boston, Lynn, Lawrence, and Lowell, Mass., and return. Simon Spill, attorney and clerk of Corporation, 169 Main Street, Biddeford, Maine, for applicants.

No. MC–FC 62869. By order of January 28, 1960, the Transfer Board approved the transfer to Smith & Miller Moving Co., Inc., Arlington, Mass., of the operating rights of Curtis Trucking, Inc., doing business as George's Back Bay Express, Boston, Mass., in Certificate No. MC 8536, issued October 16, 1959, authorizing the transportation, over irregular routes, of furniture and household goods, between Boston, Mass., on the one hand, and, on the other points in New Hampshire, Rhode Island, and Vermont. Jeanne M. Hession, 64 Harvest Street, Dorchester, Mass., for transferor. Joseph J. Mazza, 6 Beacon Street, Boston, Mass., for transferee.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 60–1119; Filed, Feb. 3, 1960; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 253]

HAWAII

Declaration of Disaster Area

Whereas it has been reported that during the month of January 1960, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Hawaii;

Whereas the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now therefore as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Offices below indicated from persons or firms whose property situated in the following County (including any areas adjacent to said County) suffered damage or destruction as a result of the catastrophe hereinafter referred to:

County: Hawaii (volcanic activity occurring on or about January 13, 1960).

Offices:

Small Business Administration Regional Office, 525 Market Street, San Francisco 5, Calif.

Small Business Administration Branch Office, Finance Factors Building, 195 South King Street, Honolulu, Hawaii.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to July 31, 1960.

Dated: January 19, 1960.

PHILIP McCALLUM,
Administrator.

[F.R. Doc. 60–1114; Filed, Feb. 3, 1960; 8:47 a.m.]

[Delegation of Authority 30–IV–6 (Revision 3)]

BRANCH MANAGER, CHARLESTON, WEST VIRGINIA

Delegation Relating to Financial Assistance, Procurement and Technical Assistance and Administrative Functions

Notice is hereby given that this delegation is rescinded in its entirety.

Effective date: January 11, 1960.

CLARENCE P. MOORE,
Regional Director, Small Business Administration, Richmond Regional Office, Region IV.

[F.R. Doc. 60–1115; Filed, Feb. 3, 1960; 8:47 a.m.]

[Delegation of Authority 30–IV–27]

BRANCH MANAGER, CLARKSBURG, WEST VIRGINIA

Delegation Relating to Financial Assistance, Procurement and Technical Assistance and Administrative Functions

I. Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30 (Revision 5) (24 F.R. 7713), there is hereby delegated to the Branch Manager, Clarksburg Branch Office, Small Business Administration, the authority:

A. *Specific.*

FINANCIAL ASSISTANCE

To take the following actions in accordance with the limitations of such delegations set forth in SBA–500, Financial Assistance Manual:

1. To approve the following types of loans:

(a) Direct business loans in an amount not exceeding $20,000;

(b) Participation business loans in an amount not exceeding $100,000;

(c) Disaster loans in an amount not exceeding $50,000;

2. To decline disaster loans.

3. To approve or decline limited loan participation loans.

4. To enter into disaster participation agreements with banks.

PROCUREMENT AND TECHNICAL ASSISTANCE

To take the following actions in accordance with the limitations of such delegations as set forth in SBA–400, Agency Policy Manual, and SBA–600, Procurement and Technical Assistance Manual:

5. To develop with Government procurement agencies required local procedures for implementing established inter-agency policy agreements, including but not limited to steps such as determing set-asides and representation at procurement centers.

ADMINISTRATIVE

6. To administer oaths of office.

7. To approve annual and sick leave for employees under his supervision.

B. *Correspondence.* To sign all nonpolicy making correspondence, including Congressional correspondence, relating to the functions of the branch office.

II. The specific authority in A.1, 2, 3, 4, 6, and 7 and I.B. may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Branch Manager.

IV. All previous authority delegated by the Regional Director to the Branch Manager, Clarksburg, W. Va., is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to the date hereof.

Dated: January 11, 1960.

CLARENCE P. MOORE,
Regional Director, Richmond Regional Office.

[F.R. Doc. 60–1116; Filed, Feb. 3, 1960; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 2-4729]

EMERALD COAL AND COKE CO.

Notice of Application for Exemption

JANUARY 28, 1960.

Notice is hereby given that Emerald Coal and Coke Company, a Delaware corporation (applicant) has filed an application pursuant to Rule 15d-20 of the general rules and regulations under the Securities Exchange Act of 1934 (Act) (17 CFR 240.15d-20) for an order exempting it from the operation of section 15(d) of the Act with respect to the duty to file any reports required by that section and the rules and regulations thereunder.

Rule 15d-20 permits the Commission upon application and subject to appropriate terms and conditions, to exempt an issuer from the duty to file annual and other periodic reports if the Commission finds that all of applicant's outstanding securities are held of record, as therein defined, that the number of such record holders does not exceed 50 persons and that the filing of such reports is not necessary in the public interest or for the protection of investors.

The application states with respect to the request for exemption from the reporting requirements of section 15(d) of the Act, as follows:

1. The only securities which applicant has outstanding consist of $3,935,000 principal amounts of First Mortgage Bonds, due March 1, 1968, and 178,454 shares of Capital Stock, without par value.

2. All of the outstanding securities of the applicant are held of record and the aggregate number of such record holders does not exceed fifty persons.

3. In the event that the order requested by applicant is granted by the Commission, applicant undertakes to continue its present practice of sending to its stockholders as soon as practicable after the close of each year a consolidated balance sheet of applicant and its subsidiaries as of the end of such year and a consolidated statement of income and retained earnings.

Notice is further given that an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate may be issued by the Commission at any time on or after February 16, 1960 unless prior thereto a hearing is ordered by the Commission. Any interested persons may not later than February 12, 1960, submit to the Commission in writing his views or any additional facts bearing upon the application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed Secretary, Securities and Exchange Commission, Washington 25, D.C. and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-1112; Filed, Feb. 3, 1960; 8:47 a.m.]

[File No. 70-3852]

DELAWARE POWER & LIGHT CO.

Notice of Proposed Two-for-One Common Stock Split and Solicitation of Proxies in Connection Therewith

JANUARY 28, 1960.

Notice is hereby given that Delaware Power & Light Company ("Delaware"), a registered holding company, has filed a declaration pursuant to sections 6(a), 7, and 12(e) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 62 promulgated thereunder. Such declaration is in regard to the following proposed transactions:

Delaware has 3,000,000 authorized shares of common stock of the par value of $13.50 per share and proposes to reclassify such common stock by changing each share of the par value of $13.50 each into two shares of Common Stock of the par value of $6.75 each. This two-for-one stock split will be effectuated by Delaware through an amendment of its Certificate of Incorporation and through the issuance to stockholders of additional certificates representing one new share for and in addition to each share held on the record date. As a result of this reclassification the 2,092,680 shares of $13.50 par value issued and outstanding common stock will be changed into 4,185,360 shares of $6.75 par value common stock and 907,320 shares of $13.50 par value authorized but unissued common stock will be changed into 1,814,640 shares of $6.75 par value common stock.

The proposed amendment requires the affirmative vote of the holders of record of not less than a majority of Delaware's outstanding common stock and will be considered at the company's annual meeting of stockholders scheduled to be held April 19, 1960. The solicitation material and proxy forms in connection therewith have been submitted for Commission approval.

Delaware states that the proposed reclassification will end to broaden the distribution of its common stock and give it greater stability and improve its marketability.

The fees and expenses to be incurred by Delaware in connection with the proposed transactions are estimated in the aggregate amount of $35,500, including transfer agents fees aggregating $8,002; registrars fees of $5,242; printing and engraving expenses aggregating $8,788; and filing fees aggregating $6,500. Legal fees will be nominal.

Delaware states that the proposed reclassification is subject to the approval of the Public Service Commission of Delaware with which an application has been filed.

Notice is further given that any interested person may, not later than February 12, 1960, request this Commission in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request and the issues of fact or law raised by the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date the declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-1113; Filed, Feb. 3, 1960; 8:47 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

LYKES BROS. STEAMSHIP CO., INC., AND COMPAGNIE DES MESSAGERIES MARITIME

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8438, between Lykes Bros. Steamship Co., Inc., and Compagnie des Messageries Maritime, covers a through billing arrangement in the trade from Madagascar to U.S. Gulf ports, with transhipment at Dar es Salaam and Mombasa in British East Africa.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: February 1, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER, *Secretary.*

[F.R. Doc. 60-1135; Filed, Feb. 3, 1960; 8:50 a.m.]

"MEXICAN LINE" ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

(1) Agreement No. 8439, between "Mexican Line", Th. Brovig, and Alcoa Steamship Company, Inc., covers a through billing arrangement in the trade from Mexico to Puerto Rico, with transhipment at New York or Baltimore.

(2) Agreement No. 8441, between "Mexican Line", Th. Brovig, and Alcoa Steamship Company, Inc., covers a through billing arrangement in the trade from Mexico to the Virgin Islands, with transhipment at New York or Baltimore.

(3) Agreement No. 8442, between "Mexican Line", Th. Brovig, and Alcoa Steamship Company, Inc., covers a through billing arrangement in the trade from Mexico to Puerto Rico, with transhipment at New Orleans or Mobile.

Interested parties may inspect these agreements and obtain copies thereof at the Regulations Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to any of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: February 1, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-1136; Filed, Feb. 3, 1960; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-97]

CORNELL UNIVERSITY

Notice of Issuance of Construction Permit Amendment

Please take notice that the Atomic Energy Commission has issued to Cornell University, Amendment No. 1, set forth below, to Construction Permit No. CPRR-31 extending the earliest and latest dates for completion of construction of the reactor facility to be located on the University's campus in Ithaca, New York to March 1961 and September 1961 respectively.

Dated at Germantown, Md., this 28th day of January 1960.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulation.

[Construction Permit CPRR-31; Amdt. 1]

Condition 1 of Construction Permit No. CPRR-31, is hereby amended by changing the first and second sentences thereof to read as follows: "The earliest date for completion of the facility is March 1961. The latest date for completion of the facility is September 1961."

Date of issuance: January 28, 1960.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulation.

[F.R. Doc. 60-1095; Filed, Feb. 3, 1960; 8:45 a.m.]

CUMULATIVE CODIFICATION GUIDE—FEBRUARY

A numerical list of parts of the Code of Federal Regulations affected by documents published to date during February. Proposed rules, as opposed to final actions, are identified as such.